

**EVALUATION FINDINGS**  
**FOR THE**  
**NEW YORK STATE COASTAL MANAGEMENT PROGRAM**  
**MARCH 1998 THROUGH OCTOBER 2003**

August 2004

Office of Ocean and Coastal Resource Management  
National Ocean Service  
National Oceanic and Atmospheric Administration  
United States Department of Commerce



## TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY .....	1
II.	INTRODUCTION .....	5
III.	REVIEW PROCEDURES .....	6
IV.	COASTAL PROGRAM AND COASTAL AREA DESCRIPTION .....	8
V.	REVIEW FINDINGS, ACCOMPLISHMENTS, AND RECOMMENDATIONS .....	9
A.	Program Operation and Coordination	
	1. Organizational Structure, Program Elements, and Operation	
	2. Grants and Grants Management	
	3. Programmatic Coordination	
B.	Natural Resource Protection	
	1. Coordination	
	2. Techniques and Technologies	
	3. Regional Efforts	
	4. Local Efforts	
C.	Hazards	
	1. Fire Island Inlet to Montauk Point Reformulation Study	
	2. New York Atlantic Coast Monitoring Program	
	3. Other Army Corps of Engineers Projects	
	4. Technical Assistance	
D.	Water Quality	
E.	Public Access	
F.	Waterfront Revitalization	
G.	Federal Consistency, Permitting, and Changes to the Statutory and Regulatory Provisions of the NYSCMP	
H.	Public Outreach	
VI.	CONCLUSION .....	37
APPENDIX A.	List of Persons Contacted .....	38
APPENDIX B.	Persons Attending the Public Meeting .....	40
APPENDIX C.	Written Comments Received and Responses .....	41
APPENDIX D.	Response to Previous (1998) Evaluation Findings .....	50

## I. EXECUTIVE SUMMARY

### A. OVERVIEW

Section 312 of the Coastal Zone Management Act of 1972, as amended (CZMA), requires NOAA's Office of Ocean and Coastal Resource Management (OCRM) to conduct periodic evaluations of the performance of states and territories with federally-approved coastal management programs. This review examined the operation and management of the New York State Coastal Management Program (NYSCMP) by the Department of State (DOS) during the period of March 1998 through October 2003.

It is the conclusion of this evaluation that the DOS is successfully implementing and enforcing its federally-approved coastal management program. This document contains one recommendation in the form of a Necessary Action that is mandatory and must be completed by the identified deadline and four Program Suggestions that denote actions OCRM believes the State should take to improve the program, but which are not mandatory at this time.

### B. SUMMARY OF ACCOMPLISHMENTS

The evaluation team documented a number of areas where the NYSCMP improved the management of New York's coastal resources. These include:

1. **Program Operation and Coordination – Organizational Structure, Program Elements, and Operation**

**ACCOMPLISHMENT:** The NYSCMP is a mature, established program that is continually reinventing and renewing its core elements and functions, branching out in different directions and in the use of tools and techniques for working with communities. Its staff is recognized for their accessibility, responsiveness, and technical skills and expertise.

2. **Program Operation and Coordination – Grants and Grants Management**

**ACCOMPLISHMENT:** The State of New York continues to make a substantial financial commitment to achieving shared federal and state goals in coastal resource management through its continuation of funding to the state's Environmental Protection Fund and the Clean Water/Clean Air Bond Act.

**ACCOMPLISHMENT:** The NYSCMP has begun implementing a mechanism by which the benefits and success of projects funded by the Environmental Protection Fund can begin to be quantified and assessed.

3. **Water Quality**

**ACCOMPLISHMENT:** The Coastal Program has been instrumental in preparation and adoption of the Long Island South Shore Estuary Reserve Comprehensive Management Plan and for being the driving force in establishing the Reserve's permanent office and staff. Such actions were vital in order to address water quality in the estuary.

**ACCOMPLISHMENT:** The NYSCMP's emphasis on, and programmatic involvement with, watershed management plans for the Finger Lakes region represents an excellent choice of planning tools available to address water quality concerns. It is indicative of the coastal program's ability to identify a need and match the need and the geographic location with an appropriate planning and implementation tool.

4. **Waterfront Revitalization**

**ACCOMPLISHMENT:** The NYSCMP has maintained an excellent long-term commitment to the Local Waterfront Revitalization Program and to the many communities that are working to develop and implement LWRPs. The staff become involved in the very early stages of planning, continue to work with a community throughout the many inevitable changes that arise (e.g., political, financial), identify and suggest funding sources and technical assistance sources, and help to sustain the vision of the community and the work effort over the long period of development and implementation when it might appear that planning interest is flagging. The NYSCMP staff work to keep the LWRP process fresh, adaptable, and responsive to a variety of communities' needs and conditions.

5. **Public Outreach**

**ACCOMPLISHMENT:** The NYSCMP staff have developed a variety of successful multi-media approaches to provide technical assistance, outreach, and educational information in response to an increasing project management and coordination workload.

**C. SUMMARY OF RECOMMENDATIONS**

In addition to the accomplishments discussed above, the evaluation team has identified areas where the program could be strengthened or improved. These include:

1. **Program Operation and Coordination – Grants and Grants Management**

**PROGRAM SUGGESTION:** The NYSCMP is urged to seek ways to expand the process of performance measurement beyond those projects funded by the Environmental Protection Fund to other funding sources and other program activities, including its CZMA awards.

2. **Public Access**

**PROGRAM SUGGESTION:** As evidenced by the concerns raised during this evaluation about public access within the New York City LWRP boundaries, there is a need for the NYSCMP to explore new or enhanced mechanisms for providing some level of informational outreach to smaller, less traditional non-governmental organizations such as neighborhood associations, particularly in New York City, to provide a better understanding of the state's coastal management program and the local waterfront revitalization program. In New York City, the city should be equally involved in consideration of such efforts. This program suggestion is not meant to be considered in isolation or as a separate staff priority work effort but should be considered a part of the program suggestions recommended under "Federal Consistency, Permitting, and Changes to the Statutory and Regulatory Provisions of the NYSCMP" and "Public Outreach."

3. **Waterfront Revitalization**

**NECESSARY ACTION:** Within two years of the date of these findings, the NYSCMP must complete development of an evaluation process for approved LWRPs and provide a written copy of the process to OCRM. OCRM has no specific requirements for the process, but the overall goal of such a process should be the ability to determine ongoing consistency of a LWRP, its implementation activities, and the local government's approvals and decision-making procedures for the LWRP with the NYSCMP and its enforceable policies. Secondarily, the process could be used to highlight successes; areas for improvement; and training, technical assistance, and outreach needs for the local government and the public.

4. **Federal Consistency, Permitting, and Changes to the Statutory and Regulatory Provisions of the NYSCMP**

**PROGRAM SUGGESTION:** The NYSCMP staff should complete and distribute its consistency manual as quickly as possible and devise a training and education workshop schedule for federal, state, and local government agencies. In relation to the Program Suggestion under Section E, "Public Access," which recommends that the NYSCMP explore mechanisms for providing some level of informational outreach to smaller, less

traditional non-governmental organizations, particularly in New York City, this training schedule should provide an early focus on New York City agencies. As part of the City's role in training additional staff following initial training by the NYSCMP, the City should invite the participation of local community boards and interested neighborhood-type associations to provide an educational opportunity for them about the consistency process.

5. **Public Outreach**

**PROGRAM SUGGESTION:** In order to support the multi-media approaches to providing technical assistance and outreach/educational information, the NYSCMP is urged to quickly complete the updating and expansion of the Division of Coastal Resources website, populate it with as much information and data as possible, and keep it updated and refreshed. This program suggestion has a relationship to the program suggestion addressing "Public Access," in that this could be an enhanced mechanism for providing informational outreach.

## II. INTRODUCTION

Section 312 of the Coastal Zone Management Act of 1972, as amended (CZMA), requires NOAA's Office of Ocean and Coastal Resource Management (OCRM) to conduct a continuing review of the performance of states and territories with federally-approved coastal management programs. This document sets forth the evaluation findings of the Director of OCRM with respect to operation and management of the New York State Coastal Management Program (NYSCMP) for the period from March 1998 through October 2003. It contains an executive summary of the review findings, a description of the review procedures, a description of the program, evaluation findings, major accomplishments during the review period, recommendations, a conclusion, and appendices.

The accomplishments noted and recommendations made by this evaluation appear in **bold** type within a box and follow the section of the findings in which the facts relevant to the accomplishment or recommendation are discussed. The recommendations may be of two types:

**Necessary Actions** address programmatic requirements of the CZMA's implementing regulations and of the NYSCMP approved by NOAA, and must be carried out by the date(s) specified;

**Program Suggestions** denote actions that OCRM believes would improve the program, but which are not mandatory at this time. If no dates are indicated, the State is expected to have considered these Program Suggestions by the time of the next CZMA §312 evaluation.

Failure to address Necessary Actions may result in a future finding of non-adherence and the invoking of interim sanctions, as specified in CZMA §312(c). Program Suggestions that must be reiterated in consecutive evaluations to address continuing problems may be elevated to Necessary Actions. The findings in this evaluation document will be considered by NOAA in making future financial award decisions relative to the New York State Coastal Management Program.

### **III. REVIEW PROCEDURES**

#### **A. OVERVIEW**

The Office of Ocean and Coastal Resource Management (OCRM) evaluation staff began its review of the NYSCMP in July, 2003. The §312 evaluation process involves four distinct components:

- An initial document review and identification of specific issues of concern;
- A site visit to New York, including interviews and a public meeting;
- Development of draft evaluation findings; and
- Preparation of the final evaluation findings, partly based on comments from the state regarding the content and timetables of necessary actions specified in the draft document.

#### **B. DOCUMENT REVIEW AND ISSUE DEVELOPMENT**

The evaluation team reviewed a wide variety of documents prior to the site visit, including: the federally-approved program document; approval findings; subsequent changes to the program; federal assistance awards; performance reports and work products; official correspondence between the program and OCRM; previous §312 evaluation findings; and other relevant information.

Based on this review and on discussions with the OCRM Coastal Programs Division (CPD) staff, the evaluation team identified the following priority issues:

- Program accomplishments, including changes to the core statutory and regulatory provisions of the NYSCMP;
- Natural resources restoration;
- Implementation of federal and state consistency authority;
- Coordination with other state, local, and Federal agencies and programs, including regional interagency coordination and interaction;
- Long Island South Shore Estuary Reserve;



- Status and effectiveness of development, review, and support for implementation of local waterfront revitalization programs;
- Urban waterfront revitalization;
- Public participation and outreach efforts;
- Watershed management planning efforts; and
- The state's response to the previous evaluation findings dated August 1998.

### **C. SITE VISIT TO NEW YORK**

Notification of the scheduled evaluation was sent to the Department of State, as the lead agency, relevant federal agencies, and the New York congressional delegation. The New York State Coastal Management Program published notification of the evaluation and the scheduled public meeting. In addition, a notice of NOAA's "Intent to Evaluate" was published in the *Federal Register* on September 17, 2003.

The site visit to New York was conducted from October 27 - 31, 2003. The evaluation team consisted of Christine McCay, Evaluation Team Leader, OCRM National Policy and Evaluation Division; Helen Bass, Program Specialist, OCRM Coastal Programs Division; and Danny Clayton, Florida Coastal Management Program.

During the site visit, the evaluation team met with the coastal program manager and staff, the Department of State first deputy secretary, representatives of federal, other state, and local governmental agencies, regional planning council members and staff, academicians, and interest group members involved with or affected by the NYSCMP. Appendix A contains a listing of individuals contacted during this review.

As required by the CZMA, a public meeting was held on Thursday, October 30, 2003, at 2:30 p.m. at the New York State Department of Health, Room 404, 5 Penn Plaza, New York City, where members of the general public were given the opportunity to express their opinions about the overall operation and management of the NYSCMP. Appendix B lists persons who attended the public meeting.

Written comments were also accepted. Appendix C contains responses to written comments received in response to the evaluation.

The NYSCMP staff were crucial in setting up meetings and arranging logistics for the evaluation site visit. Their support is most gratefully acknowledged.

#### **IV. COASTAL PROGRAM AND COASTAL AREA DESCRIPTION**

The New York State Coastal Management Program (NYSCMP) was approved by NOAA in September 1982; it is now in its 21<sup>st</sup> year of implementation. The Department of State (DOS), through the Division of Coastal Resources, is the lead agency responsible for administration of the NYSCMP. The Waterfront Revitalization and Coastal Resources Act (WRCRA) provides DOS with the authority to establish a coastal program, develop coastal policies, define the coastal boundaries, establish state consistency requirements, and provide a coordination mechanism. The WRCRA also links responsible state agencies under the umbrella of the NYSCMP and ensures that actions directly undertaken by state agencies within the coastal area shall be consistent, where applicable, with the coastal area policies.

The NYSCMP contains 44 coastal policies that are implemented through regulatory and management authorities assigned to a number of state agencies. Twenty-seven of these policies are contained in the WRCRA. The Department of Environmental Conservation has regulatory authority over many development and land use activities in the coastal area through a number of resource protection statutes that focus on wetlands (Tidal Wetlands Act; Freshwater Wetlands Act), erosion and flooding hazards (Coastal Erosion Hazard Areas Act), water and air quality, and disposal of hazardous and toxic wastes. The Office of General Services has jurisdiction over most of the state's underwater lands, whereby the use of these lands may be conveyed to the general public through the issuance of grants, easements, or leases.

The WRCRA also provides local governments with the option to establish local waterfront revitalization programs (LWRP), which address local needs and plans in accordance with the NYSCMP policies. When a LWRP has received approval by the Department of State, state consistency provisions automatically apply. The State Environmental Quality Review Act provides the mechanism to ensure that the actions and programs of other state agencies give adequate consideration to the policies of the NYSCMP. Upon NOAA approval and a state public notice of that approval, a LWRP becomes incorporated into the NYSCMP, at which time federal consistency provisions of the program also apply to the local program.

According to a NOAA publication entitled "The Coastline of the United States," New York has 2,625 miles of coast (based on "tidal shoreline"). More than 70% of the state's population inhabit the coastal area. The state contains a diversity of marine and freshwater areas that can be categorized into four distinct regions: Long Island and Long Island Sound; New York City; the Great Lakes-St. Lawrence and Niagara Rivers; and the Hudson River, extending over 150 miles from its mouth to the dam at Troy. The coastal boundary is generally 1,000 feet from the shoreline. When necessary this boundary extends inland to include all identified areas of particular concern. In urbanized areas and other developed locations along the coastline, the boundary is defined by an existing cultural feature that is approximately 500 feet from the shoreline.

## **V. REVIEW FINDINGS, ACCOMPLISHMENTS, AND RECOMMENDATIONS**

### **A. PROGRAM OPERATION AND COORDINATION**

#### **1. Organizational Structure, Program Elements, and Operation**

The NYSCMP is an established, experienced program that has evolved an organizational structure and programmatic elements to address the unique and varied marine and freshwater landscapes and the diverse cultural and economic areas that comprise the state's coastal expanses. Its success was acknowledged, by many people with whom the evaluation team met, to be due to the staff's accessibility, technical skills and expertise, and willingness to "go the extra mile." The program has recognized the regional nature of the natural and human environments of the state. Regional significance and factors are addressed by approximately half of the program staff, who are organized into a local and regional program structure. Thus, specific staff are dedicated to working with communities in six regions: New York City, Long Island, Hudson River Valley, Central (Syracuse/Finger Lakes area), Western (Buffalo/Rochester/Niagara Falls area), and Northern (Lake George/Lake Champlain/St. Lawrence River area). In this way the same staff can work with the same communities within a region, sharing lessons learned and accumulating "historical knowledge." Additionally, while the NYSCMP does not have separate field offices, it has strategically and selectively allocated resources to field locations where such allocation is advantageous to specific program development and delivery objectives. The South Shore Estuary Reserve Office, described elsewhere in this document, and two positions in the Brownfields Opportunity Area program to New York City and the western part of the State, respectively, are examples of this.

The NYSCMP has further organized this regional structure to identify a common theme to guide planning and implementation projects and activities in each region. Although the themes are clearly related to the overall mission of the NYSCMP (i.e., make waterfront communities – both human and natural resource communities – better places), the unique natural and socio-economic aspects of each region affect the common theme in different ways. For example, the New York City regional theme is "reconnecting New York's neighborhoods to the waterfront." In central New York the regional theme is "stimulating economic development through waterfront revitalization and watershed enhancements." Such region-specific themes help establish priority activities that best serve the communities when staff resources are limited in both the NYSCMP and the local communities.

Within this regional structure, the NYSCMP has devised a range of techniques and mechanisms to accomplish both planning and implementation activities. These are briefly mentioned here and discussed in greater detail in later sections of this findings document. The Local Waterfront Revitalization Program (LWRP) is the signature initiative of the NYSCMP.

The LWRP is a locally prepared, comprehensive land and water use plan for a community's natural, public, and working waterfront, and developed coastal resources. As such, it provides a fairly specific tool with common elements but is designed for maximum flexibility to meet the unique environmental setting and desires of each local community. The NYSCMP is working on making the LWRP tool even more user-friendly by allowing communities to develop and implement a partial LWRP or single components in a sequential fashion.

Another suite of tools falls under the umbrella of special management area plans. These include watershed management plans, natural area plans, redevelopment plans, and maritime center/harbor management plans. Again, these types of plans fit certain general situations but provide the flexibility needed to meet varied local environmental and socio-cultural settings. Once completed, these plans can stand alone, become an element of a LWRP, or become part of a larger regional effort. Two such regional efforts are mentioned here and discussed in greater detail in the following sections of this Findings document. The Long Island South Shore Estuary Reserve Comprehensive Management Plan has been completed and adopted, and implementation activities are underway. The Long Island Sound Coastal Management Program (covering the north shore of Long Island and complementing the South Shore Estuary Reserve) was approved by NOAA in 2002 and has produced a series of recommendations and new policies tailored to the economic, environmental, and social characteristics of the region. These policies are consistent with the NYSCMP coastal policies but reflect the regional reality.

Approximately the other half of the NYSCMP staff is organized into several general topical or issue areas that are common to all the regions and to the program itself. Certain staff who deal specifically with coastal hazards, coastal habitats, and nonpoint/water quality are able to work with communities and projects or activities in all the regions. Other staff work in geographic information systems techniques and technology; and in public outreach, education, and media activities. These elements serve individual communities as well as regional efforts, the NYSCMP, other state agencies and collaborative partnerships. These efforts are also discussed in following sections of this document.

**ACCOMPLISHMENT: The NYSCMP is a mature, established program that is continually reinventing and renewing its core elements and functions, branching out in different directions and in the use of tools and techniques for working with communities. Its staff is recognized for their accessibility, responsiveness, and technical skills and expertise.**

## 2. Grants and Grants Management

The NYSCMP uses little of its annual cooperative agreement award funding for direct grants to local communities. However, the state has been farsighted in providing at least two large statewide funding sources to address a broad range of environmental issues, parts of which are administered by the DOS for accomplishing the purposes of the NYSCMP. These monies are awarded as grants to local communities, among other recipients. The Environmental

Protection Fund (EPF) is a permanent fund dedicated to addressing a broad range of environmental issues and coastal issues, including redevelopment, harbor management, dredging, maritime heritage, commercial fisheries, habitat restoration, erosion control and mitigation, water quality, and coastal education. The funds are derived from real estate transfer tax revenues. The Clean Water/Clean Air (CW/CA) Bond Act provides funds to address environmental problems that threaten the state's air and water. It has been providing funding since 1996 and will be depleted of dollars in the next year at the current rate that grants are being awarded. These monies represent a substantial state commitment to achieving shared federal and state goals, and the NYSCMP and its programs and projects have benefitted significantly, particularly in the areas of natural resource restoration, waterfront revitalization, and water quality. There is additional discussion of these programs and projects in those particular issue areas later in this document.

**ACCOMPLISHMENT: The State of New York continues to make a substantial financial commitment to achieving shared federal and state goals in coastal resource management through its continuation of funding to the state's Environmental Protection Fund and the Clean Water/Clean Air Bond Act.**

The NYSCMP administers the monies from these two funds that are directed to the Department of State for award to local municipalities and other entities. The NYSCMP also administers the funds that come to the state from the Great Lakes Restoration Project grants. This is an extremely large workload for the NYSCMP staff, who review all applications, award contracts, manage projects, monitor projects and contracts, and provide technical assistance. During the period covered by this evaluation, the staff was involved with these activities associated with 360 projects (including project management) totaling \$104 million in awards from the EPF and CW/CA Bond Act Fund, and 24 projects totaling almost \$14.5 million from the Great Lakes Coastal Watershed Restoration Grant Program. The total number of applications reviewed (including those not receiving funds) was even larger – over 2,500 applications for CW/CA Bond Act funds alone. As noted below in the “Programmatic Coordination” subsection, the DOS works with other state agencies to coordinate announcements of funding opportunities and to deliver training session to enable the development and submission of complete and effective grant application submissions.

During this evaluation period the NYSCMP staff have developed and begun implementing a project to identify performance indicators, quantify the benefits of projects funded from the EPF, and document each project's significance and value to the community, the region, and the state by measuring the results. This began prior to the period covered by this evaluation with the use of a Measurable Results Report form completed by the award recipient for each project. During this evaluation review period, the NYSCMP staff revised the Measurable Results Report form to include additional key performance measures, hired a consultant to develop a Measurable Results database, and approved the system design

specification. The system is designed to report on a broad array of performance indicators by contract, project, location, county, region, and statewide. The next steps for the NYSCMP are to develop and test the system, contract to input all Measurable Results Report data, and then coordinate with the state Department of Environmental Conservation and other agencies to share and modify the system to monitor and report on additional performance parameters. NYSCMP staff are commended for their early insight into the importance of being able to measure the results of publicly funded projects. Given the fiscal situation at the federal, state, and local levels and the emphasis Congress is placing on performance measurement as it relates to funding through the Coastal Zone Management Act, the NYSCMP is encouraged to expand this process beyond just projects funded through the EPF.

**ACCOMPLISHMENT:** The NYSCMP has begun implementing a mechanism by which the benefits and success of projects funded by the Environmental Protection Fund can begin to be quantified and assessed.

**PROGRAM SUGGESTION:** The NYSCMP is urged to seek ways to expand the process of performance measurement beyond those projects funded by the Environmental Protection Fund to other funding sources and other program activities, including its CZMA awards.

### 3. Programmatic Coordination

By the very nature of its networked structure, the NYSCMP in the Division of Coastal Resources must coordinate planning and project activities with other NYSCMP agencies to be successful in its mission and to meet the national objectives of the Coastal Zone Management Act. The staff does this well and has gone beyond the necessary and usual coordination in ways that are particularly beneficial to its “customers” – local communities. Specifically, grant funding application coordination was noted by several local governments during the course of the evaluation site visit. Funds from the state’s Environmental Protection Fund and the Clean Water/Clean Air Bond Act are made available to a number of state agencies, who in turn announce the availability of their funds to eligible applicants. Many municipalities with whom the evaluation team met said the availability of a large number of grants is wonderful but bewildering. The state agencies, including the Department of State, all cooperate and coordinate joint public information workshops to explain grant application requirements and procedures. The agencies send out their requests for proposals at the same time, making it easier for municipalities to see their options and submit appropriate applications. The agencies also forward applications they receive to another state agency if the application is better suited to the criteria of that agency’s grant process. The NYSCMP staff are adept at helping communities identify and link their particular funding needs with the appropriate grant sources. This was

noted in the previous evaluation findings dated August 1998, but it is clear that local communities appreciate successful efforts to reduce and clarify bureaucracy and redundancy.

During the period covered by this evaluation, the NYSCMP has collaborated and coordinated on a wide variety of activities, many of which are discussed elsewhere in this document. This includes, but is not limited to, specific efforts as part of the New York Atlantic Coast Monitoring Program, Long Island Sound Study, Long Island Sound Dredging Task Force, New York-New Jersey Harbor Estuary Program, Hudson River Habitat Restoration Program, the Hudson Raritan Restoration Program in New York Harbor, the Peconic Estuary Program, Great Lakes Restoration Project, and the Fire Island Inlet to Montauk Point Reformulation Study.

In addition, the coastal program participates in Governor Pataki's *Quality Communities* program. The Secretary of State chairs the 16-agency Community Center Revitalization Committee, charged with exploring new collaborative approaches to help communities across New York state revitalize their downtowns. The Division of Coastal Resources leads a team of agency partners who are assisting 12 demonstration communities to develop community visions, identify community priorities, create an implementation strategy, and carry out projects to realize revitalization objectives.

## **B. NATURAL RESOURCE PROTECTION**

The coastal program's mission is to "make waterfront communities – both human and natural resource communities – better places...." Thus, emphasis on natural resource protection crosscuts all the programs, plans, and strategies the NYSCMP creates, implements, or participates in at the state, regional, and local government levels throughout all the geographic regions of the state. One of the program's major priorities is natural resource restoration. Review of the cooperative agreement performance reports for the period covered by this evaluation bears out the program's focus on protection and restoration. The state has also made a very significant state financial commitment outside of CZMA funds by providing \$31 million in Environmental Protection Fund and the Clean Water/Clean Air Bond Act funding to address 82 natural resource restoration projects during the period covered by this evaluation. Some examples of the program's activities involving natural resource protection and restoration efforts are highlighted below.

### **1. Coordination**

New York is successfully advancing wetland protection, enhancement, and restoration through increased regional interagency coordination. The coastal program coordinates with and serves on the Long Island Sound Study Interagency Habitat Restoration Team guiding restoration of tidal and freshwater wetlands and other natural habitats; the New York Harbor Estuary Program's habitat work group; the Corps of Engineers' Hudson River Habitat Restoration Program and the Hudson Raritan Restoration Program in New York Harbor; and co-chairs the Peconic Estuary Program habitat restoration workgroup. Such multi-agency

cooperation at a greater than local level is indicative of the NYSCMP's approach to natural resource protection.

## 2. Techniques and Technologies

During the time period covered by this evaluation, the departments of State and Environmental Conservation jointly developed and completed the New York State Salt Marsh Restoration and Monitoring Guidelines. Given the number of funded habitat restoration projects in the state, there was a perceived need to develop a comprehensive, accessible, and understandable source for current technical information on salt marsh restoration and ecology. The *Guidelines* help to increase the quality of restoration project planning by provided accepted reference standards and protocols to guide project planning, techniques, and monitoring to measure success.

There has been an increased interest in using open marsh water management technology (OMWM) techniques for wetland restoration, but the technique has not been used to a great degree in New York, resulting in lack of agreement about when, where, and how to undertake OMWM projects. The NYSCMP is working with multiple federal and state agencies, municipalities, and private conservation groups to create a process to identify, prioritize, and restore wetlands using OMWM. Specifically, the program has worked with members of the Long Island Wetland Restoration Initiative (a multi-agency task force initiative sponsored by the U.S. Fish and Wildlife Service) to develop a unified approach to evaluating mosquito-ditched tidal wetlands on Long Island for potential OMWM restoration projects.

The Significant Coastal Fish and Wildlife Habitats program quantitatively evaluates and designates habitats as 'significant' as part of New York's policy aimed at habitat protection to preserve the recreational, commercial, and ecological benefits derived from coastal fish and wildlife resources. Four criteria are used to screen and identify the most significant coastal habitats; biologists in the Department of Environmental Conservation (DEC) have developed a quantitative system that is then used to evaluate each candidate habitat. Habitats scoring above a specific value are recommended to the Secretary of State for designation. Public review and comment is a part of the designation process. Once designated, the significant habitats are mapped and filed with county and municipal clerks' offices.

The program began with designation of Long Island habitats in 1987 and was completed in 1994 with the designation of significant habitats in St. Lawrence County. Over 300 habitats have been evaluated statewide and almost 250 have been designated and approved by OCRM (101 on Long Island, 50 in the Great Lakes region, 15 in the New York City area, 39 in the Hudson River Valley and Westchester County section of Long Island Sound, and 42 in Jefferson and St. Lawrence counties). Knowing the locations of these habitats provides site specific information useful for impact assessment by regulators; provides information for developers and applicants to avoid delays in the project development and approval process; and serves the general public with knowledge to avoid destroying valuable habitats through development of coastal land and water resources.



During the period covered by this evaluation, the NYSCMP has been revisiting the original designations for possible revisions and to determine the need for new designations. The process began in 1998 on Long Island and has included the Peconic Estuary (completed), and the north shore (Long Island Sound) and south shore (including the South Shore Estuary Reserve) of Long Island. This reevaluation of designations has been an important part of and link to the completion and implementation of the Peconic Estuary Program Comprehensive Conservation and Management Plan and the Long Island South Shore Estuary Reserve Comprehensive Management Plan.

The coastal program has developed a Wetlands Restoration Assessment Protocol. In New York there are many opportunities for wetland restoration, but the potential for successful restoration is not equal among all sites. To determine which sites have the greatest potential, the NYSCMP developed a GIS-based tool designed to assist with the identification, evaluation, and prioritization of potential areas for restoration throughout the South Shore Estuary Reserve (SSER – discussed below). Data layers, including 1880s-1940s historic wetland maps, DEC tidal wetland regulatory maps, high-resolution ortho-imagery, and living resource use, can be combined to help visualize and develop conceptual plans for wetland restoration. The tool has now been used in coordination with the U.S. Army Corps of Engineers in identifying 10 dredge spoil sites for restoration in the SSER. It has also been used in coordination with the Long Island Wetland Restoration Initiative to identify and prioritize over 150 formerly connected tidal wetlands in the SSER and Peconic Bay.

### 3. Regional Efforts

The Long Island South Shore Estuary Reserve (five South Shore bays and the adjacent upland areas draining into them) was established by the Long Island South Shore Estuary Reserve Act in 1993, as was a council charged with preparation of a comprehensive management plan for the protection and restoration of the estuary's natural, cultural, and economic-related resources. The Secretary of State chairs the Council, and the Department of State Division of Coastal Resources developed the comprehensive management plan (plan). The plan was adopted by the Council in April 2001. The Division of Coastal Resources established a South Shore Estuary Reserve office in Freeport in 2002. The office has three full-time individuals working with the Council to advance its priorities: 1) improve and maintain the Reserve's water quality; 2) protect and restore its living resources; 3) expand public use and enjoyment of the estuary; 4) sustain and expand the estuarine-related economy; and 5) increase education, outreach, and stewardship. Adoption of the plan and establishment of the office have been significant milestones since the adoption of the Act and have played a large part in sustaining the momentum and interest of all parties involved in the SSER.

Since adoption of the plan, 28 resource improvement projects have been undertaken, representing over \$5.2 million of state and local investment. In response to the plan's natural resource protection priority, approximately 2,230 acres of tidal wetlands, eight upland grassland sites totaling 116 acres, and an island supporting a nesting colony of roseate terns have been restored by the Reserve's implementation partners. As noted in the previous paragraphs, the

existing designations of significant coastal fish and wildlife habitats are being revisited and revised within the South Shore Estuary Reserve boundaries by the NYSCMP, which complements and advances implementation of the plan as well as serving as an important activity in its own right.

The NYSCMP has also been a key player in New York's restoration efforts as part of the multi-state, regional *Great Lakes Restoration Project*. In 2001 Congress appropriated \$30 million to acquire and restore critical habitat, implement storm water controls, and clean contaminated sites along the five Great Lakes. New York received \$4.5 million of that appropriation. Using those funds, the NYSCMP worked with other state agencies and environmental groups to leverage an additional \$10 million. Since then, 11 of the 24 competitive projects that have been selected to receive funding are helping to protect and restore natural resources. These include, but are not limited to, the Seneca Bluffs wetland and river corridor habitat restoration, Naples Creek aquatic habitat restoration, 35-acre Parma coastal forest and wetland acquisition and development of a management plan, and the 45,000-acre land and conservation easement acquisition on the Tug Hill plateau.

#### 4. Local Efforts

Much work in natural resource protection and restoration occurs in local projects. The NYSCMP has established long-term relationships with many coastal municipalities and assists with site analysis, project planning and design, and identification of funding opportunities. The coastal program administers two important sources of restoration funds: the state's Environmental Protection Fund and its Clean Water/Clean Air Bond Act. Local waterfront revitalization plans, watershed management plans, natural area plans, redevelopment plans, and even maritime center/harbor management plans all can and do have components that plan for protection or restoration of natural resources and have been funded from these two sources. Under the Environmental Protection Fund, projects have included town-wide wetland restoration planning, development of native plant species propagation techniques, and feasibility studies for restoring fish passage in stream corridors. A variety of projects have also been funded from the Clean Water/Clean Air Bond Act, including salt marsh, freshwater wetland, dune, and colonial waterbird habitat restorations.

### C. HAZARDS

In general, New York's coastal areas face the greatest danger from both chronic and episodic erosion, often resulting from flooding, storm surge, or sea/lake level rise. Inappropriate development often contributes to, and is threatened by, erosion. The coastal management program addresses erosion both directly and indirectly in a variety of ways. Program staff provide technical assistance to local governments and private individuals; work with state and federal agencies; conduct site specific research; and use planning tools like the Environmental Protection Fund grants and local waterfront revitalization plans to accomplish coastal hazards goals. The scale of such activities runs from implementation of local projects that address development activity to very large-scale projects to monitor erosion and plan for preventive

measures and extends to all the waterways of the state. In all cases the NYSCMP emphasizes non-structural options, restoration of coastal processes, and enhancement of natural resources. The majority of this work has occurred in four primary areas:

#### 1. Fire Island Inlet to Montauk Point Reformulation Study

During the period covered by this evaluation, the NYSCMP has participated with the state Department of Environmental Conservation, the U.S. Department of Interior, the Fish and Wildlife Service, and the Army Corps of Engineers in the Corps' *Fire Island Inlet to Montauk Point Reformulation Study*. This \$24 million storm damage reduction study involves preparation of an implementable, comprehensive, long-term regional strategy for the 83-mile portion of the south shore of Suffolk County, Long Island, that will reduce risks to human life and property while maintaining, enhancing, and restoring ecosystem integrity and coastal biodiversity. The project was originally authorized in 1960, and portions were funded. However, the Council on Environmental Quality referred the study for reformulation after objections from the Department of Interior. The funding was restored in the mid-1990s and the study has since been resumed.

The reformulation study is now taking an innovative approach, using a science-based model for addressing coastal storm risk reduction and pre- and post-storm shoreline management along both barrier and mainland shorelines. The final plan will recommend measures for implementation by federal agencies, the state, the county, and local governments. Priority will be given to non-structural measures; dune and beach replenishment will be minimized; measures that avoid or minimize adverse environmental impacts and adequately address long-term demands for public resources will be used wherever and whenever appropriate and required; existing past and present coastal area modifications will be assessed and appropriately recommended for removal, alteration, or mitigation; and efforts will be undertaken to reduce flood risks, flooding and erosion through site specific measures.

The study is not without controversy because of its history, size, scope, and significance, but the NYSCMP continues to advocate that the study should provide a means of long-term shoreline management that entails restoration and maintenance of natural coastal processes, rather than relying on continuous construction of additional shore protection over time. The NYSCMP also advocates that the project be consistent with state coastal policies. During the time period covered by this evaluation the coastal program has pursued its advocacy in several ways. It has participated in the reformulation study's technical management groups – Coastal Processes, Environmental, Non-structural, Public Outreach, and Economics. The project Vision statement and the Environmental Restoration Framework document reflect the coastal program's commitment to risk reduction and environmental restoration. These documents are also consistent with state coastal policies. The NYSCMP staff is assisting the Corps on an alternatives analysis to develop project alternatives that recognize state coastal policies. As part of this effort, the NYSCMP is working with the Corps to develop an evaluation process that reflects risk reduction benefits as well as the negative consequences of structural approaches.

#### 2. New York Atlantic Coast Monitoring Program

The *New York Atlantic Coast Monitoring Program* is an interagency effort (the Coastal Resources Division/NYSCMP, the Corps, the state DEC, and New York Sea Grant) that gathers and distributes data to local governments for hazard management. These agencies all have responsibilities for responding to coastal hazards and frequently cooperate on planning and project development. Since Corps funding for the project expired in 2001, the state has continued the program, primarily through the Coastal Resources Division/NYSCMP. During this evaluation period, the NYSCMP has worked on a software product called *CoastalView*. The Corps produced the software, which combined approximately 3,000 beach profile surveys, almost 1,500 air photos, and various map-based data sets. However, the NYSCMP reviewed the data and found that over 20% were erroneous or questionable, so the NYSCMP and Sea Grant prepared a revised data set eliminating the known problems. NYSCMP staff organized a presentation of *CoastalView* for local governments and public agencies in 2002 and is now working on ways to improve the software for wider release.

Other significant efforts of the NYSCMP as part of the monitoring program include: 1) management of state-funded contracts for beach profile surveys in spring 2002 and spring 2003 [a total of 469 beach profiles were surveyed]; 2) management of memoranda of understanding with the State University of New York (SUNY)-Stony Brook for continuing surveys at Shinnecock Inlet (a high erosion area) and for compilation of a database and a report analyzing all the beach file data from the monitoring program; and 3) management of a memorandum of understanding with New York Sea Grant that produced a web site feasibility report for *CoastalView* and quality assurance of the data. *State of the Coast* reports will be produced as part of the memorandum, and funding is being sought from the NOAA Coastal Services Center for web site implementation.

### 3. Other Army Corps of Engineers Projects

Since 1998 the NYSCMP has provided guidance and comment on more than 22 Corps of Engineers projects in which the primary focus is hazards-related. For example, the NYSCMP convinced the Corps to study long shore sediment transport and consider restoration, rather than to rely on structural measures in the Asharoken Storm Damage Protection and Beach Erosion project. In the Mattituck Inlet project, the NYSCMP studied shoreline recession rates and convinced the Corps to investigate the impacts of federal navigation structures. This led to a Rivers and Harbors Act Section 111 study. At the Corps' Shinnecock Inlet project, the NYSCMP investigated sediment transport, a sand bypassing system, and a possible spur addition to the west side jetty. This work led to modification of the Interim Project to include use of flood shoals in renourishment cycles, re-examination of current regional sediments budgets, and will benefit the Fire Island Inlet to Montauk Point Reformulation Study as well.

### 4. Technical Assistance

The NYSCMP staff has provided technical assistance on hazard-related issues to a host of federal and state agencies, local governments, and private individuals. During this evaluation period, for example, the NYSCMP has (and is) participating in peer review of modeling for the

New York Sea Grant/SUNY-Stony Brook study looking at the hydrologic feasibility of storm surge barriers to protect the metropolitan New York-New Jersey region. The study is taking a closer look at where and how much flooding would occur in storm surge conditions. The program staff have been working with the South Shore Estuary Reserve to inventory and map flood and erosion problems.

Some staff time and effort also goes into assisting local governments related to hazards issues as part of the development and implementation of local waterfront revitalization programs. The NYSCMP aided the Town of Southampton in preparation of a generic environmental impact statement (GEIS) on the impacts of shore hardening along the Atlantic Coast of the town. The GEIS was instrumental in formulating a town position on shore hardening and has served as the basis for adoption of local laws regulating development along the shoreline and restricting sea walls and bulkheads. The GEIS has now served as a model for other towns and villages examining the impacts of structures along the shoreline.

#### **D. WATER QUALITY**

The improvement, protection, and restoration of water quality through water quality management and watershed planning is another significant aspect and high priority of the NYSCMP. During the years covered by this evaluation, the coastal program's focus has been on interagency coordination, technical and financial assistance to local governments and state agencies, preparation of watershed plans, and the management of an increasing number of capital improvement projects to restore water quality and habitats. Of significant note is the fact that, during the period covered by this evaluation, the state invested \$19 million in state funds from the Environmental Protection Fund and Clean Water/Clean Air Bond Act fund into 79 water quality projects, some of which are discussed below.

The NYSCMP addresses water quality management in watersheds in its conditionally approved *Coastal Nonpoint Pollution Control Program* (nonpoint program) area, whose boundaries extend beyond the coastal program boundaries and cover approximately 60 percent of the state. The NYSCMP is a member of the state's Nonpoint Source Coordinating Committee and provides technical water quality and planning assistance to local governments, state agencies, and non-governmental organizations to implement the state's nonpoint program. This includes capital improvement projects, such as stormwater system retrofits, and developing and strengthening local laws. The NYSCMP is also assisting the state's Onsite Training Network in developing a septic system management certification program.

As part of the South Shore Estuary Reserve (SSER) Comprehensive Management Plan, the NYSCMP created a tool to assess local nonpoint source pollution management capacity. The *Model Process for Municipal Assessment of Local Nonpoint Pollution Control* consists of a series of worksheets based on practices in the Section 6217 Management Measures Guidance. The NYSCMP staff reviewed local laws of the six towns in the SSER and met with town officials and staff, evaluating the capacity of each town's programs and practices to prevent and remediate nonpoint pollution, including internal controls and capital improvement projects.

Recommendations in draft reports were finalized after the towns provided comments. This assessment tool is now being applied to the 31 villages and one city on the South Shore and to the Finger Lakes Region and Lake George.

As discussed under the “Natural Resource Protection” section above, the Long Island South Shore Estuary Reserve was created by state law to protect and restore the estuary’s natural, cultural and economic-related resources. The first priority among five is to improve and maintain the Reserve’s water quality. Significant work has been accomplished toward this priority. The SSER Comprehensive Management Plan (plan) calls on local governments in the Reserve to assume a leadership role in reducing nonpoint source pollution. Certainly those actions and accomplishments geared toward natural resource protection can result in improved water quality. In addition, specific water quality implementation actions include construction of storm water management projects, adoption of best management practices by municipalities, developments of watershed plans, and continued water quality monitoring. During the period covered by this evaluation, numerous implementation actions have been initiated and completed. Such activities include, but are not limited to:

- a stormwater management work group established by the NYSCMP and the SSER Council to provide implementation partners with technical expertise on stormwater runoff issues, comprehensive watershed planning, and other issues;
- storm water remediation programs for eight tributaries in Suffolk County developed by the Suffolk County Soil and Water Conservation District;
- stormwater capital projects undertaken by Nassau County for Massapequa Creek and by Hempstead, Babylon, Islip, Brookhaven, and Southampton in priority watersheds;
- a Great South Bay stormwater plan being developed by Babylon in close cooperation with the villages of Amityville, Babylon, and Lindenhurst; Islip completed its own Great South Bay stormwater outfall survey and analysis;
- on-site septic systems removed from the nature center, police barracks, and residence area at Jones Beach State Park, and a sewer system extended to these locations;
- an integrated pest management plan initiated for the golf course at Robert Moses State Park, and lawns and parkway shoulders seeded with a turf grass variety that requires less maintenance;
- a comprehensive restoration plan for the Beaver Dam Creek watershed being developed by a task force of nearly two dozen partners. Suffolk County has established a water quality monitoring program as part of this effort and has completed a land use and development analysis of the creek corridor;
- a duck sludge remediation plan for Suffolk County’s newly acquired Gallo duck farm property on Mud Creek being developed by the County.

The NYSCMP has played a major role in the successes of the SSER. In support of developing the SSER plan, the NYSCMP completed a series of 37 technical reports on water quality, living resources, open space, public use, flooding and erosion, and the estuarine

economy. The Secretary of State chairs the SSER Council, and the Department of State Division of Coastal Resources developed the plan, which was adopted by the Council in April 2001. The Division of Coastal Resources established a South Shore Estuary Reserve office in Freeport in 2002. The NYSCMP must be recognized for its diligence, sustained momentum, and dedication to seeing the plan completed and the office established. These two actions were necessary for further successes and implementation.

**ACCOMPLISHMENT: The Coastal Program has been instrumental in preparation and adoption of the Long Island South Shore Estuary Reserve Comprehensive Management Plan and has been the driving force in establishing the Reserve's permanent office and staff. Such actions were vital in order to address water quality in the estuary.**

*Watershed management plans*, one of several types of special management area plans created by the NYSCMP, are a vital tool in the state's efforts to improve water quality. The framework for local watershed management planning is straightforward but effective. The focus is on a whole watershed, rather than on political boundaries. It emphasizes an inter-municipal approach, based on partnerships among local governments, state and federal agencies, and non-governmental organizations. As the watershed management committee, the partners comprise the institutional oversight and share responsibility for establishing clear planning goals. The plan serves as a consensus among the partners on priority actions to both protect and restore water quality and habitat; focuses limited available funding; generates an implementation strategy for capital improvements, institutional changes, technical assistance and training, and public education; and identifies a lead agency or organization to advance each priority. Generally a watershed management plan includes three major sections: a characterization of the watershed study area, preventive and corrective components that identify projects and actions needed, and an implementation component. Providing even further integration and effectiveness, a watershed management plan may become a component of a local waterfront revitalization plan or be incorporated into a regional coastal management program.

Nineteen watershed management plans have been completed with the NYSCMP's assistance. During the period covered by this evaluation, considerable work and effort have been focused in the Finger Lakes region of central New York. Watershed management planning has proven to be an excellent choice of planning tool for this region, where there are fewer land uses (often a single primary land use – agriculture) and population levels are relatively low, with concentrations in fewer, smaller towns. In general this results in a manageable number of municipalities encompassing the entire watershed of a single lake. The region is characterized by a dozen lakes whose watersheds include a variety of valuable natural resources. The lakes and their watersheds are used extensively for agriculture, recreation, and tourism, resulting in a firm link among water quality, natural resource protection, and the regional economy.

A watershed management plan was completed for Conesus Lake in 2003. The watershed encompasses seven municipalities, which, along with other lake protection stakeholders,

developed a plan that addressed the lake's key water quality issues of sedimentation, nutrient enrichment, bacterial contamination, and pesticide loading. The DOS financed preparation of the plan through three grants from the state's Environmental Protection Fund (EPF). In 2001, the six counties and 44 municipalities comprising the watershed for Cayuga Lake completed a watershed management plan. The plan's priority actions focus primarily on reducing nonpoint sources of pollution, such as sedimentation from tributary streams in the southern watershed, runoff from agricultural uses, and road runoff. Three EPF grants financed preparation of the plan. Also in 2001, 14 municipalities and other stakeholder organizations in the Canandaigua Lake watershed completed a watershed management plan for that lake. The Canandaigua Lake Watershed Council is now implementing priority actions, including a homeowners integrated pest management program and a model local ordinance for soil erosion control. Here, too, EPF grants financed the plan preparation. Grants from the Great Lakes Restoration Program have been awarded for specific implementation projects in the Canandaigua and Cayuga Lakes watersheds.

As part of its watershed management planning strategy, the NYSCMP is currently undertaking a collaborative effort with the Genesee/Finger Lakes Regional Planning Council to assist implementation of all three of these Finger Lakes watershed plans. Funds from the Great Lakes Coastal Watershed Restoration Program will be used to develop specific local stormwater control laws and/or ordinances for municipalities within the three lakes' watersheds.

**ACCOMPLISHMENT: The NYSCMP's emphasis on, and programmatic involvement with, watershed management plans for the Finger Lakes region represents an excellent choice as a planning tool available to address water quality concerns. It is indicative of the coastal program's ability to identify a need and match the need and the geographic location with an appropriate planning and implementation tool.**

## **E. PUBLIC ACCESS**

The NYSCMP is taking advantage of many partnership and funding opportunities to increase and improve public access. Public access is addressed by a variety of the NYSCMP's initiatives and activities. Many of the special management area plans, such as watershed management plans, natural area plans, redevelopment plans, and maritime center/harbor management plans, include opportunities for increased access to the coast. In addition, all publicly funded shore protection projects are reviewed to ensure that adequate public access is provided.

While New York still faces the same problems that many other coastal states face – increasing coastal population, which increases the demand for access, which exceeds available funding – the NYSCMP has demonstrated initiative by taking advantage of various types of state funding to increase public access. These include the Clean Water/Clean Air Bond Act, the



Environmental Protection Fund, and other state programs that provide assistance to local municipalities for public access projects.

There are several ongoing regional acquisition, access planning, and comprehensive planning initiatives that address this issue, including:

- the South Shore Estuary Reserve Comprehensive Management Plan, which outlines numerous public access proposals;
- the Long Island Sound Coastal Management Program, which is assisted by the legislatively-created Long Island Sound Coastal Advisory Commission (1999). The Commission includes an Access and Restoration Subcommittee to focus on improving public access to Long Island Sound;
- the Long Island Sound Access Work Group, of which the NYSCMP is a member, which is coordinating efforts under a \$25 million initiative announced by Governor Pataki in 2000 to more than triple the number of significant, unrestricted public access areas on Long Island Sound;
- the Governor's Task Force for Hudson River Estuary Access (1999), of which the NYSCMP is a member, which is evaluating potential and identifying specific sites to provide new access to the Hudson River;
- the Community Preservation Fund, which was approved by the State Legislature in 1998 and is designed to help five Suffolk County (Long Island) towns protect undeveloped and environmentally significant lands from development. The towns developed plans that identified potential acquisition sites; parks, beaches, and shorelines were prominent categories of land so identified. Development of these plans included close coordination with the NYSCMP and the draft local waterfront revitalization program plans in three of the towns, all of which contained specific public access policies.

In addition to these public access special initiatives, local waterfront revitalization programs (LWRPs) and special management area plans are the primary tools by which the NYSCMP and local communities address coastal access needs at a local scale on a day-to-day basis. Two examples where the state and local governments are providing a significant investment in public access are discussed below. In addition, Section F entitled "Waterfront Revitalization" below provides further discussion about the LWRPs and several more examples.

Brooklyn Bridge Park – Brooklyn is the most populous borough in New York City, yet it has the least amount of park land per person, and waterfront access is at a premium. The \$145 million Brooklyn Bridge Park will provide the most significant public access to the Brooklyn waterfront in over a century. It will encompass Brooklyn Piers 1 through 5, now owned by the New York-New Jersey Port Authority, and stretch 1.3 miles along the East River south of the Brooklyn Bridge. More than 80 percent of the park will be open space. The Division of Coastal Resources has provided more than \$1.9 million to the Brooklyn Bridge Park Development Corporation for master plan development, has participated on the innovative and interactive planning process undertaken through the Citizens Advisory Council, and has collaborated with the Development Corporation to solicit and review design team proposals.

Cities of Tonawanda and North Tonawanda – The two cities of Tonawanda and North Tonawanda are at the western terminus of the Erie Canal and a major gateway to the State's recreational boating system. As part of their LWRPs, and through a series of Environmental Protection Fund grants, these cities have cooperatively expanded and improved public access to the Canal and the Niagara River waterfront. Using waterfront access improvements made as part of their LWRPs, the cities host the annual Canal Fest, which attracts over 300,000 people during its eight-day run. In addition, the cities hold concerts and other events throughout the summer at their waterfront venues.

**Far Rockaway Public Access Issues** – During preparation for the evaluation site visit and during the visit itself, a concern about public access within one locality evoked considerable discussion. It is related to several specific projects involving development and redevelopment within the coastal zone boundary in Far Rockaway, Borough of Queens, on the Rockaway Peninsula, which fronts on Jamaica Bay on the north and the Atlantic Ocean on the south. Members and supporters of the Beachside Bungalow Preservation Association (a local homeowners interest group) and other concerned residents have sent numerous letters, e-mails, and volumes of supporting documentation, contending that planning and development approval actions taken or not taken by various governmental entities have resulted in projects that are inconsistent with the approved New York City Waterfront Revitalization Program (LWRP) policies and the NYSCMP policies.

The projects in question are: 1) the Wavecrest Gardens 2; 2) Impressive Homes/YOMA Development Group; 3) Duane Reade drugstore; and 4) the Arverne Urban Renewal project. The citizens' concerns with and allegations about these projects generally involve, among others, the loss of customary waterfront public access across vacant property from their street ends to the ocean, "demapped" street ends, loss of the customary visual corridor, City decisions not to recognize private easements, loss of a walkway and ramp on private property owned by the developer, and development not in character with the surrounding neighborhoods. Some of the concerns and issues date to actions taken years prior to the period covered by this evaluation. Information has been provided to some of the citizens over the course of many years, during the period covered by this evaluation, and before and after the site visit as well, in an attempt to respond to their concerns.

New York City's LWRP was approved by the NYSCMP in 1982, then revised and re-approved in 2002 by both the NYSCMP and NOAA. Policy 8 in the NYC LWRP, which addresses public access, states: "Provide public access to and along New York City's coastal waters." It further indicates that the public access provisions of the city's waterfront zoning regulations implement this policy for actions subject to zoning, and compliance with the requirements of the zoning text satisfy this policy.

Under the LWRP, local discretionary actions, including those subject to the city's land use review, environmental, and variance procedures, are reviewed for consistency with the LWRP policies. The LWRP review is coordinated with existing regulatory processes and generally occurs concurrently. For local actions requiring approval by the City Planning

Commission, the Commission (acting as the City Coastal Commission) makes the consistency determination. For local actions that do not require approval by the Planning Commission but do require approval by another city agency, the head of that agency makes the final consistency determination. For federal and state actions within the city's coastal zone, the Department of City Planning, acting on behalf of the City Coastal Commission, forwards its comments to the state agency making the consistency determination.

The situation in Far Rockaway has become highly polarized. City and state agencies and officials, including the DOS and the NYSCMP, believe they have taken appropriate actions that are legitimate, legal, and consistent with the NYSCMP; while some of the residents believe that those actions are inconsistent with local, state, and federal coastal policies and are, therefore, illegal and inappropriate. For example, the Wavecrest Gardens 2 development was subject to compliance with New York City zoning requirements. Public documentation indicates that waterfront public access is not required for the development because it is not on a waterfront zoning lot; and that a visual corridor is not required because there is a mandatory visual corridor located on a mapped street 138 feet west of the zoning lot. According to that documentation, compliance with zoning requirements has been met; therefore, the project is consistent with the New York City LWRP and with the NYSCMP. However, the Beachside Bungalow Preservation Association believes that those zoning requirements and that determination are inconsistent with the LWRP and the NYSCMP policies for public access; therefore the project should never have been approved and the buildings must be torn down with CZMA funds that would otherwise be awarded to the NYSCMP for annual program implementation.

The CZMA is a voluntary partnership between the federal government and a state. The state and all units of local government in the state still retain their sovereign rights and jurisdictional authorities after NOAA has approved the state's CMP. A programmatic evaluation under Section 312 of the CZMA considers the totality of actions and activities undertaken during the specific period covered by the review as an indication of whether the state CMP still meets the policies and provisions of the CZMA as it did when originally approved and through subsequent program change approvals. If a state is found to be not in compliance with its approved management program or the terms of any CZMA grant or cooperative agreement, enforcement authority given to NOAA under the CZMA consists solely of: 1) suspension and reallocation of CZMA financial assistance to address the reasons for a finding of noncompliance; and 2) withdrawal of coastal management program approval and withdrawal of CZMA financial assistance.

Thus, a programmatic evaluation under Section 312 of the CZMA, and this New York State CMP evaluation and site visit, are not intended to resolve specific disputes over local permitting decisions, nor to collect evidence regarding specific actions taken, nor to issue a finding about whether a governmental entity was correct or incorrect in specific project-related decisions. NOAA, through the CZMA, cannot and does not overturn or supersede state or local decisions or 'force' a state or local government to enforce or implement a state or local law or regulation. The CZMA does not authorize NOAA to recommend substantive modifications to local or state permitting decisions. Citizens who do not agree with decisions made by the city or

the state have available appropriate recourse through state law. It is the role of NOAA through the evaluation process to review and evaluate how the state is implementing its approved program (the approved program having been found to meet and further the goals and policies of the Coastal Zone Management Act). NOAA can recommend improvements to the state's implementation of its program, and in the case of states with approved local programs, can recommend improvements to the state's oversight of a local coastal program. While NOAA can direct federal funds to address administration of state coastal management programs, federal funds cannot be directed to remove permitted development.

The evaluation team is not aware of any other situations or other projects within the state that have become a focal point of citizen concern in the way the Far Rockaway access projects have, although there may be other instances where citizens do not concur with development or redevelopment approval actions taken by local or state government agencies. However, in contrast to the Beachside Bungalow Preservation Association members and supporters, several people indicated at the public meeting, in other meetings, and in writing that they were pleased with the assistance from the NYSCMP in many aspects of local coastal management, including public access, and particularly public access issues in New York City.

This evaluation did not note any indication of a pattern, intentional or otherwise, of citywide or statewide failure, to appropriately implement the approved coastal management program and address the coastal management policies and needs identified in the CZMA. However, the Far Rockaway citizen concerns do point out the need for citizen outreach and clear explanation of the requirements of the state CZM program. The New York City LWRP covers a geographic area and population size larger than some entire state coastal management programs. Many state programs often have some trouble effectively communicating information about their responsibilities and activities to their citizens. It is probably a fair assessment and not at all an indictment of New York City to say that it faces the same problem.

Both the city and the NYSCMP work with governmental (federal, state, regional, local, and borough) agencies and entities and traditional non-governmental groups and reach out through well established channels in New York City. However, because of the sheer size of the city and the staffing and funding shortfalls it faces, there are undoubtedly many citizens not affiliated with those sorts of groups who lack an adequate working knowledge or understanding of how the city's LWRP is related to the state's coastal management program, and how local and state development actions are related to the LWRP. Neighborhood associations, including groups such as the Beachside Bungalow Preservation Association, other groups established in response to a perceived threat to their interests, or informal groups that coalesce around a specific local resource may not be aware of coastal governance information and outreach and feel "disenfranchised" when decisions are made. Some of the citizens speaking at the site visit public meeting and some of the submitted written documentation indicate that they did not know about local, state, and federal coastal management laws and regulations until the Far Rockaway public access issues arose, and they believe that very few other citizens are aware of the programs and laws either.

**PROGRAM SUGGESTION:** As evidenced by the concerns raised during this evaluation about public access within the New York City LWRP boundaries, there is a need for the NYSCMP to explore new or enhanced mechanisms for providing some level of informational outreach to smaller, less traditional non-governmental organizations such as neighborhood associations, particularly in New York City, to provide a better understanding of the state’s coastal management program and the local waterfront revitalization program. In New York City, the city should be equally involved in consideration of such efforts. This program suggestion is not meant to be considered in isolation or as a separate staff priority work effort but should be considered a part of the program suggestions recommended under “Federal Consistency, Permitting, and Changes to the Statutory and Regulatory Provisions of the NYSCMP” and “Public Outreach.”

Some of the concerns voiced by citizens about public access in Far Rockaway involve issues of state and local consistency of specific projects or actions. Section G (“Federal Consistency, Permitting, and Changes to the Statutory and Regulatory Provisions of the NYSCMP”) addresses consistency and review issues relevant to the Far Rockaway issues and includes a related Program Suggestion. The citizen comments also reflect concerns about issues of LWRP accountability, implementation, and consistency of the LWRP with the NYSCMP. Section F (“Waterfront Revitalization”) addresses this and includes a related Necessary Action.

## **F. WATERFRONT REVITALIZATION**

Waterfront revitalization is central to the mission of the NYSCMP – “to make waterfront communities...better places....” Many of the NYSCMP’s programs, projects, and strategies contribute to waterfront revitalization in a community, but the target tool for accomplishing this is the *Local Waterfront Revitalization Program* (LWRP). A LWRP is a locally prepared, comprehensive land and water use plan for a community’s natural, public, and working waterfront and developed coastal resources. A municipality develops community consensus regarding the future of its waterfront and refines state coastal policies to reflect local conditions and circumstances. Once approved, it becomes the basis for actions and decisions in the local waterfront area and serves to coordinate state and federal actions needed to achieve the community’s goals. A LWRP may contain a number of components addressing issues important to the community, including waterfront redevelopment, public access, water quality protection, historic maritime resource protection, harbor management, erosion hazards management, and habitat restoration. A community can accomplish a LWRP in a single effort or in stages through any number of components, each of which focuses on a critical issue or discrete geographic area.

Over 200 communities are participating in the NYSCMP's local waterfront revitalization program. For almost all, development and implementation of a LWRP is a long-term commitment for their citizens, elected officials, and staff. It may take time to reach a community consensus; there may be changes in elected leadership; and the local economy may fluctuate. There is always a search for funds to develop and implement projects. Through it all the NYSCMP staff provide support and assistance. NYSCMP staff often initiate discussions with a community about the possibility of developing a LWRP, sometimes before a community may have considered its options. The staff become involved in the very early stages of planning, stick with a community throughout the many inevitable changes that arise (e.g., political, financial), suggest funding sources and technical assistance, and help to sustain the vision of the community and the work effort over the long haul of development and implementation. Every LWRP community the evaluation team met with during the site visit praised the NYSCMP staff for the long-term commitment, support, and assistance they provided.

During the period covered by this evaluation, the state of New York has provided \$54 million from the Environmental Protection Fund and the Clean Water/Clean Air Bond Act to implement 199 urban development projects. These funds are from state revenue and include no CZMA funds. This has been a major benefit to the local waterfront revitalization program, which is the cornerstone of the NYSCMP.

Several examples of work initiated or completed during this evaluation period include:

City of Oswego: The city is located along Lake Ontario in central New York at the confluence of the Oswego River. The river is a canalized waterway that divides the city into east and west sections and is part of the state canal system. The waterfront and downtown became economically distressed as port-related activity declined. The city completed its LWRP in 1986 and has focused on implementation activities since then, primarily involving development of the River Walk along both the east and west sides of the river adjacent to the downtown. The River Walk has been completed along the east side, is nearing completion along the west side, and includes a pedestrian walkway, transient boat docks and services, pavilions, and a performance amphitheater. These projects have reconnected the city to its waterfront and have established Oswego as one of seven major harbor centers for the state canal system. Improvements to the waterfront have been key to bringing people downtown, and the city organizes and sponsors several events throughout the year for this purpose. The LWRP activities have also spurred private sector reinvestment in the downtown. In the past several years, two new hotels, six restaurants, and numerous businesses have opened along the waterfront.

City of Albany: Albany is located on the Hudson River at the original eastern entrance and gateway to the historic Erie Canal. During the period covered by this evaluation, the city has worked to plan for and implement revitalization of both its North Waterfront and South Waterfront areas on the Hudson River, and to complete the Hudson Riverway and Corning Preserve redevelopment as part of its LWRP. The completed North Waterfront Redevelopment Strategy centers on creation of a new harbor as the primary economic driver for redevelopment and recommends land uses that would better complement the city's downtown. As part of the

South Waterfront Plan, a feasibility study was conducted to establish a “living history site” for the south waterfront. A 16-acre site would consist of a permanent home for the replica of Henry Hudson’s ship *Half Moon* and docking for visiting tall ships, replicas of Mohican and Dutch colonial settlements, an interpretive center, park land, and mixed use commercial development. The City completed the Hudson Riverway, a pedestrian bridge that extends over Interstate 787 into the newly constructed amphitheater in Corning Preserve. Other improvements include floating docks with new bulkheads and shoreline stabilization, a visitors’ center with bus access area, and improvements to the existing multi-use path.

City of Troy: During the period covered by this evaluation, the city completed the South Troy Working Waterfront Revitalization Plan to foster reuse of about 100 acres of vacant, underused land along the Hudson River. The plan integrates a mix of new uses and relocates existing industries from the northern portion of the study area to unused brownfield sites in the southern portion. The plan also calls for significant open space, waterfront access, and neighborhood amenities to revitalize the riverfront. Implementation projects are underway. Elsewhere in the city, a furniture showroom has been renovated into an arts center; a boat launch has been completed, including a riverfront path with future bike trail connection and pump-out station, and improvements have been made to the Troy city dock and marina, including a new landing facility for recreational charter boats.

Village of Freeport: Freeport is located on the south shore of Long Island. Its waterfront area, the “Nautical Mile” (Woodcleft Avenue), is a focal point for residents and visitors with restaurants, commercial fishing boats, shops, and the Long Island Marine Education Center. Most recently, the Long Island South Shore Estuary Reserve opened a permanent council office in Freeport in the waterfront district. With the assistance of the NYSCMP staff and several grant awards in the five-year period covered by this evaluation, the village completed a comprehensive program of planning, infrastructure improvements, and redevelopment projects to revitalize the waterfront destination. In the fall of 2000 Freeport received Long Island’s first Governor’s Waterfront ReDiscovery Award for the revitalization of the Woodcleft Avenue waterfront district.

City of Glen Cove: Glen Cove is located on Long Island’s north shore, fronting Hempstead Harbor and Long Island Sound. Glen Cove Creek empties into Hempstead Harbor and provides additional waterfront area. Nine of the 10 miles of city shoreline are pristine on the Sound and the Harbor, but one mile of waterfront along Glen Cove Creek, which lies in the heart of the city’s business district, was ‘home’ to two federal Superfund sites, a New York State Inactive Hazardous Waste site, and several brownfields. In addition, the creek had not been dredged in over 30 years, and unattenuated nonpoint source pollution and sediment entered the creek.

Development of the Glen Cove Creek LWRP was initiated in 1993 to address the clean-up and redevelopment of 214 acres of the waterfront. Glen Cove is a small city of approximately 25,000 people and limited resources, so it has had to be innovative in its strategies and expansive in its partnerships and collaboration. As a result of the LWRP, the city has received over \$23 million in grants and loans from state and federal agencies to clean up contaminated sites, purchase land, dredge a federal navigation channel, repair existing and provide new

infrastructure, and provide recreational amenities. The LWRP and resulting zoning changes provide a clear road map of the community's vision to private developers and state and federal agencies as well.

The plan is working – during the period of this evaluation, several marinas were able to double their numbers of slips; the city was designated a Brownfields Showcase Community by the Brownfields National Partnership (1998); and a new restaurant opened on Glen Cove Creek in 2000, the first business established on the waterfront in years. In 2001 a new high-speed ferry service to Manhattan began operating from the Glen Cove waterfront. A request for proposals from investors to redevelop over 50 acres of waterfront land for mixed-use commercial development has been issued. The city has also completed remediation of the 26-acre Captain's Cove site and began construction of the Glen Cove Creek Esplanade to provide a pedestrian walkway from downtown to and along the Glen Cove Creek waterfront. The NYSCMP staff continue to provide financial and technical assistance and support to the city for its implementation activities.

**ACCOMPLISHMENT:** The NYSCMP has maintained an excellent long-term commitment to the Local Waterfront Revitalization Program and to the many communities that are working to develop and implement LWRPs. The staff become involved in the very early stages of planning, continue to work with a community throughout the many inevitable changes that arise (e.g., political, financial), identify and suggest funding sources and technical assistance sources, and help to sustain the vision of the community and the work effort over the long period of development and implementation when it might appear that planning interest is flagging. The NYSCMP staff work to keep the LWRP process fresh, adaptable, and responsive to a variety of communities' needs and conditions.

The LWRP has been an exceptionally successful component of the NYSCMP. The process has encouraged long-term land use planning and the development of sound environmental policy in communities that are often in collaboration with the NYSCMP for decades, in some cases. Such success does present challenges, however. The 1998 evaluation findings discussed the dilemma of providing technical assistance for LWRP development and implementation for an increasing number of local governments, even while the number of NYSCMP staff stays constant. The NYSCMP has focused on some changes to the LWRP tool to make it even more user-friendly and responsive, while also addressing the issue of staff workload and commitment to local governments. One modification to the process would allow communities to develop and implement a partial LWRP. A new multi-media project has been developed (Section H. "Public Outreach" below) to address this need, and GIS technology and applications have been devised to assist NYSCMP staff with the provision of technical assistance and general information.

With the increase in the number of communities taking advantage of the LWRP comes the challenge of keeping track of them all, both in terms of simple accounting of all LWRP communities, as well as monitoring and tracking their program development or amendment and implementation activities. The 1998 evaluation findings included a recommendation in the form



of a necessary action (Necessary Action 2) requiring the DOS to develop and begin implementing a written strategy for improving its capability to assist local governments with basic aspects of LWRP implementation, establish a process for monitoring, tracking, and reporting on LWRP implementation activities, and include the information based on the tracking and reporting system in semi-annual performance reports to OCRM.

The DOS has established some components that are elements of a basic strategy, such as the multi-media project and GIS applications (noted above and discussed in Section H. “Public Outreach”) and the development of a consistency manual with associated training sessions (see discussion in Section G. “Federal Consistency, Permitting, and Changes to the Statutory and Regulatory Provisions of the NYSCMP”). The NYSCMP has also indicated that unit (functional groups of the NYSCMP) work plans have been implemented and that work plans in EPF contracts now establish the basis for monitoring and reporting to the Department of State. Semi-annual performance reports sent to NOAA by the NYSCMP address the LWRP progress and EPF initiatives by community.

The next step in the evolution and maturation of the statewide local waterfront revitalization program is to develop an evaluation procedure for approved LWRPs. As part of the progression of a local government from greater dependence upon the NYSCMP staff during initial LWRP development to lesser dependence after approval and during implementation, the NYSCMP may have less day-to-day contact and knowledge about particular aspects of a LWRP. Because approved LWRPs are incorporated into the NYSCMP, the state is responsible for the consistency of a local waterfront revitalization program with the approved state coastal management program. Review of progress reports submitted as a contractual requirement for projects receiving funding to implement a LWRP is a part of evaluation, but what is less clear and transparent is how an evaluation of permitting and approval actions by the local government for overall ongoing consistency with the state CMP is conducted.

When the NYSCMP was initially approved, the Final Environmental Impact Statement for the proposed program and the OCRM Approval Findings both noted that the main or primary mechanism by which the program would be implemented was through state regulatory and management authorities assigned to several state agencies. For specific parts of the program, the state had enacted several laws for the protection and management of particular resources and areas that authorized local governments to implement state-established standards, criteria, and procedures through local waterfront revitalization programs. At the time of program approval, only New York City had a LWRP, which was approved and incorporated into the NYSCMP at the time of state CMP approval. By the time of this evaluation, however, over 100 LWRPs have been approved or are being developed.

The capability to assist local governments with LWRP implementation, the ability to monitor and track LWRP implementation activities, and the periodic evaluation of approved LWRPs are all vital and necessary for the NYSCMP to determine and confirm the ongoing consistency of any LWRP with the approved state CMP. It is in the interests of local governments, the NYSCMP, and OCRM to be able to evaluate the performance of a LWRP in order to be able to ascertain its ongoing consistency with the state’s CMP. These essential activities are similar to the requirements a state CMP must meet when it is originally approved as

a program whose land and water controls are implemented through local governments rather than directly by the state. As noted above, the NYSCMP has evolved considerably since original program approval toward significant implementation through local governments. As with the periodic evaluation of a state coastal management program, the LWRP evaluation can also highlight successes, document how taxpayer funds were used, highlight areas where changes may be needed to the LWRP, identify where procedures may not have not been followed, and indicate where training and technical assistance to the local government should be targeted.

Some evaluation of LWRPs is taking place now through the ongoing activities of the NYSCMP in working with those local governments. A clearly defined written process would address those areas not yet being evaluated, if any; combine disparate tracking, monitoring, and evaluation efforts (consistency database, semi-annual performance reporting); and make clear the outcome of such an evaluation. For example, perhaps the NYSCMP's Consistency Review/GIS database could be linked with the Measurable Results database to enhance a LWRP tracking system. OCRM recognizes the finite staff and financial resources of the NYSCMP, and leaves the design of the process up to the state.

**NECESSARY ACTION: Within two years of the date of these findings, the NYSCMP must complete development of a single monitoring/evaluation process for approved LWRPs and provide a written copy of the process to OCRM. OCRM has no specific requirements for the process, but the overall goal of such a process should be the ability to determine ongoing consistency of a LWRP, its implementation activities, and the local government's approvals and decision-making procedures for the LWRP with the NYSCMP and its enforceable policies. Secondly, the process could be used to highlight successes; areas for improvement; and training, technical assistance, and outreach needs for the local government and the public.**

#### **G. FEDERAL CONSISTENCY, PERMITTING, AND CHANGES TO THE STATUTORY AND REGULATORY PROVISIONS OF THE NYSCMP**

The Division of Coastal Resources reviews projects and activities of federal agencies for consistency with the policies of the NYSCMP and the policies of approved LWRPs. State agencies are also required to ensure consistency of their projects and activities with the state and local program policies.

Between 1998 and 2003, the Division reviewed 6,177 applications for federal authorization, direct federal activities, or federal financial assistance to municipalities for consistency. There were several significant reviews during this period. The Division objected to the U.S. General Services Administration's (GSA) consistency determination regarding the disposal of Governor's Island in New York Harbor. The GSA proposed the sale of this former military installation for not less than a fair market value of \$550 million to private interests. The DOS strenuously objected to the consistency determination, arguing that Governor's Island represented a unique historical public resource that should remain in public ownership and be made available, without restriction, to all members of the public. Governor's Island has now been conveyed to the people of the state of New York for one dollar, and the NYSCMP staff are

involved in the planning for public use and development. The Division also found the Millenium Pipeline proposal to construct a natural gas pipeline crossing the Hudson River in the Haverstraw Bay Significant Coastal Fish and Wildlife Habitat to be inconsistent with the policies of the NYSCMP. This determination was appealed to the Secretary of Commerce, and at the time of the evaluation site visit, no appeal decision had been made. [Since that time, the Secretary has issued a decision, sustaining the state's finding that the project was inconsistent with New York State coastal management program policies.]

To help manage this workload, the Division simplified and streamlined its consistency review procedural and substantive decision-making processes by developing General Concurrences for activities that meet general concurrence criteria. This has provided for improved and more expeditious consistency decisions for most activities reviewed by the Department. The Division also has also developed a consistency review/GIS database to help manage and make more accessible the information obtained from consistency reviews. The system is designed to provide data query and mapping capabilities and allows for thematic overlays – for instance, significant habitats, wetlands, or past reviews. The NYSCMP is working toward Division-wide use of the database (for example, LWRP development and implementation), increased data and program coordination with other agencies, and for interactivity on-line through web browser.

The NYSCMP staff are also in the final stages of development and completion of a consistency manual. At the time of the site visit, a draft was being reviewed internally. The manual will be a guide to the substantive and procedural coastal management program federal and state consistency provisions and processes and will serve primarily as a training and reference tool for federal, state, and municipal partners. It will include a section on how to assess coastal effects on consistency with coastal policies, and in this respect (as well as others) it also will be a useful document for citizens and interest groups.

During meetings with several federal agency representatives, they acknowledged that changes in their personnel often result in a loss of the institutional knowledge base with respect to the consistency process and procedures. They all indicated that the completion and distribution of the NYSCMP's consistency manual will be a positive step. They also acknowledged that they need more training opportunities for their staff and that at least a once-a-year training was essential. Finally, they agreed that they needed to take some responsibility for their staff training and agreed that what they needed from the NYSCMP staff was "training the trainers" sessions.

The discussions at the public meeting and written comments and materials provided to the evaluation team also show that, for the Far Rockaway public access issues, there is some confusion on the part of the public about how federal and state consistency relate to policies of the NYSCMP and the New York City LWRP in the context of project development zoning and other approvals. There are significant complexities and important yet subtle differences in the determinations of local, state, and federal consistency, and the interactions of public rights, private property rights, zoning, and judicial decisions. Opportunities should be created for outreach and education using the consistency manual in combination with workshops or

educational training sessions for both local citizen groups as well as state and local agency staffs, particularly in New York City.

**PROGRAM SUGGESTION:** The NYSCMP staff should complete and distribute its consistency manual as quickly as possible and devise a training and education workshop schedule for federal, state, and local government agencies. In relation to the Program Suggestion under Section E, “Public Access,” recommending that the NYSCMP explore mechanisms for providing some level of informational outreach to smaller, less traditional non-governmental organizations, particularly in New York City, this training schedule should provide an early focus on New York City agencies. As part of the City’s role in training additional staff following initial training by the NYSCMP, the City should invite the participation of local community boards and interested neighborhood-type associations to provide an educational opportunity for them about the consistency process.

The final findings for the NYSCMP dated August 1998 included a Necessary Action that addressed the significant backlog of statutory and regulatory provisions needing to be submitted to NOAA for approval and incorporation into the program. During the period covered by this current evaluation, staff submitted a number of changes to the statutes, coastal policies, Special Management Areas, and procedures and requested NOAA’s concurrence that these changes represented routine program changes. NOAA concurred and those changes have been incorporated into the NYSCMP.

## **H. PUBLIC OUTREACH**

The NYSCMP’s efforts at public outreach and participation are the foundation of much of its successful work with local communities. Staff are routinely involved in all aspects of a community’s efforts to make its waterfront a better place to live, work, and recreate. Such involvement includes communication and assistance to local waterfront revitalization program advisory committees, project advisory committees, regional programs outreach, grant program workshops; production of or assistance with a variety of informational brochures, documents, and newsletters; and sponsorship of or participation in conferences.

The NYSCMP held the *Quality Coasts/Quality Communities Waterfront ReDiscovery Conference* in 2000, 2001, and 2002. The conferences provided an ideal forum to develop partnerships among communities, agencies, and not-for-profit organizations to aid in redevelopment of the state’s waterfront communities. Almost 1,500 participants have attended the three conferences, which have been one and one-half day events. At the conference the Secretary of State, on behalf of the Governor, presents the Waterfront ReDiscovery Awards, which recognizes recipients’ contributions to achieving waterfront excellence in New York State. The conference to be held in 2004 will last two full days and will combine a ‘smart growth’ event with the coastal conference, to be called  $QC^2 + SG_{2004}$  (Quality Communities, Quality Coasts, and Smart Growth Conference 2004).

Such intense involvement in outreach, education, and participation comes at a high cost in terms of staff time. This has become more difficult as more grants and contracts to local communities are awarded. The NYSCMP has devised a new “Multi-Media Project” that is proving to be an effective tool for providing technical assistance and is helping to shoulder some of the staff workload. The project creates an integrated multi-media package of motivational and educational materials related to the preparation and implementation of local waterfront revitalization programs – how to make the most of a waterfront, sharing lessons learned, specific techniques that have worked, sources of information and assistance, and the experiences of local communities that have successfully enhanced their waterfronts. The multi-media package does or will include videos, guidebooks, and an updated and expanded Division of Coastal Resources website. A similar multi-media package has been created to address the reuse of abandoned waterfront buildings and sites; plans are underway for a third package to address watershed planning and implementation.

The NYSCMP’s use of geographic information system (GIS) technology is important for a variety of reasons, but it is clearly a tool that furthers outreach, education, and participation, not only for citizens, but for local governments and regional, state, and federal entities and agencies in the coastal zone. The NYSCMP has developed a GIS-based spatial model to address nonpoint pollution potential in the South Shore Estuary Reserve. The model allows evaluation of pollution potential within watersheds by considering a variety of variables and provides areawide information useful for preparing plans for reducing nonpoint pollution. The successful application of the model on Long Island has led to its use in the Lake George basin and its anticipated application in other watersheds around the state. The model benefits efforts to address nonpoint pollution, but it is also an educational/information transfer tool as well.

The coastal program has also developed *NYSCRIP* (New York State Coastal Resources Interpretive Program), the state’s first comprehensively designed interpretive signage system for use in all coastal and waterfront communities. Given the diversity of marine and freshwater areas in the state and the variety of uses and values perceived by a community for its waterfront and coastal area, *NYSCRIP* is a mechanism to identify the unique elements of a local waterfront while providing a mechanism to highlight the commonalities linking all areas of the coast in New York. The signage is standardized. Two signage systems – wayside and kiosk – with certain specific elements and formats have been created. Five themes were developed (historic, working, living, protecting, and enjoying) that define New York state coasts and waterfronts by use and how use affects a sense of place. A *NYSCRIP* guidelines manual (available in paper and CD-R) contains all design and construction information and criteria as well as examples of wayside and kiosk panels.

**ACCOMPLISHMENT: The NYSCMP staff have developed a variety of successful multi-media approaches to provide technical assistance, outreach, and educational information in response to an increasing project management and coordination workload.**

**PROGRAM SUGGESTION:** In order to support the multi-media approaches to providing technical assistance and outreach/educational information, the NYSCMP is urged to quickly complete the updating and expansion of the Division of Coastal Resources website, populate it with as much information and data as possible, and keep it updated and refreshed. This program suggestion has a relationship to the program suggestion dealing with “Public Access,” in that this could be an enhanced mechanism for providing educational outreach.

## VI. CONCLUSION

Based upon the recent evaluation of the NYSCMP, I find that the state of New York is adhering to its approved program and is making satisfactory progress in implementing the provisions of its approved coastal management program. The NYSCMP has made notable progress in the following areas: (1) Program Operation and Coordination – Organizational Structure, Program Elements, and Operation; (2) Program Operation and Coordination – Grants and Grants Management; (3) Water Quality; (4) Waterfront Revitalization; and (5) Public Outreach.

The evaluation team identified the following five areas where the NYSCMP could be strengthened or improved: (1) Program Operation and Coordination – Grants and Grants Management; (2) Public Access; (3) Waterfront Revitalization; (4) Federal Consistency, Permitting, and Changes to the Statutory and Regulatory Provisions of the NYSCMP; and (5) Public Outreach.

These evaluation findings contain five recommendations – one Necessary Action that is mandatory and four Program Suggestions that should be considered by the NYSCMP prior to the next §312 evaluation of the program.

This is a programmatic evaluation of the NYSCMP which may have implications regarding the state's financial assistance awards(s). However, it does not make any judgment about, or replace any financial audit(s) related to, the allowability or allocability of any costs incurred.

8/11/04

Date

/s/ Eldon Hout

Eldon Hout, Director  
Office of Ocean and Coastal  
Resource Management

**LIST OF PERSONS CONTACTED**DEPARTMENT OF STATE

Frank Milano, First Deputy Secretary of State

DIVISION OF COASTAL RESOURCES/NYSCMP

George Stafford, Director	Kevin Millington
Sam Messina, Deputy Director	Nick Nikiforov
Fred Anders	Barry Pendergrass
Sally Ball	Steve Resler
Vance Barr	Steve Ridler
Greg Capobianco	Nancy Rucks
Bonnie Devine	Ken Smith
Jeff Herter	Nancy Walsh
Nancy Kunz	Peter Walsh
Rod McNeil	Jeff Zappieri

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Lynette Stark

FEDERAL AGENCY REPRESENTATIVES

Joe Vietri, U.S. Army Corps of Engineers  
 Mark Roth, U.S. Army Corps of Engineers  
 Joe Olha, U.S. Army Corps of Engineers  
 Michael Bilecki, National Park Service, Fire Island National Seashore  
 Diane Abell, National Park Service, Fire Island National Seashore  
 Ed Als, U.S. Environmental Protection Agency

LOCAL GOVERNMENT REPRESENTATIVES

Walt Vandeloo, City of Troy	Jeanne Garant, Village of Port Jefferson
V. Zubkovs, City of Troy	Bob Tumilowicz, Village of Port Jefferson
Dave Turner, City of Oswego	Jamie Mills, Village of Greenport
Ben Banta, City of Oswego	Dave Abateli, Village of Greenport
David Woods, Livingston County	Martin Shea, Town of Southampton
Heather Hogarty, Livingston County	Rich Groh, Town of Babylon
Wayne Houseman, Town of Bristol	Joe Guarino, Town of Babylon
Bill Woods, New York City	Steven Bellone, Town of Babylon

(Continued)



#### REGIONAL AGENCIES AND ENTITIES

Sylvia Hurlbut, Inter-municipal Organization  
Sharon Anderson, Cayuga Lake Watershed Network  
Kevin Olvany, Canandaigua Lake Watershed Council  
Betsy Landre, Finger Lakes-Lake Ontario Watershed Protection Alliance  
David Zorn, Genesee/Finger Lakes Regional Planning Council  
Brian Slack, Genesee/Finger Lakes Regional Planning Council  
Jason Haremza, Genesee/Finger Lakes Regional Planning Council  
Anne Saltman, Central New York Regional Planning and Development Board  
Jeff Fullmer, Long Island South Shore Estuary Reserve  
Alan Svoboda, Long Island South Shore Estuary Reserve

#### ACADEMIA

Dr. Joseph Markarewicz, SUNY Brockport  
Linda Wagenet, Cornell University  
Chris Pickerell, Cornell University  
Emerson Hasbrouck, Cornell University, Cooperative Extension

#### OTHER ORGANIZATIONS AND REPRESENTATIVES

Joe Fama, TAP, Inc.  
Liz Moran, EcoLogic  
Sarah Meyland, Citizens Environmental Research Institute  
Thomas Williams, Post Morrow Foundation  
Carl LoBue, The Nature Conservancy  
Jon Benguiat, Brooklyn Bridge Park Development Corporation  
Jim Moogan, Brooklyn Bridge Park Development Corporation  
Jeanne DiLascio, Gowanus Canal Community Development Corporation  
Aimee Boden, Randall's Island Sports Foundation  
Cecil Corbin-Mark, We ACT, Inc.  
Carter Craft, Metropolitan Waterfront Alliance  
Mark Caserta, New York League of Conservation Voters

### PERSONS ATTENDING THE PUBLIC MEETING

The public meeting was held on Thursday, October 30, 2003, at 2:30 p.m. at the New York State Department of Health, Room 404, 5 Penn Plaza, New York City, New York.

<u>NAME</u>	<u>AFFILIATION</u>
Carmela George	Beachside Bungalow Preservation Association
Richard George	Beachside Bungalow Preservation Association
Bernard Blum	President, Friends of Rockaway
John Baxter	Friends of Rockaway
Stephen Wohl	Private Citizen
Frank Gerace	Private Citizen
Sharon Hoge	Private Citizen
Fran Allen	Chair, Waterfront Advisory Committee, Croton-on Hudson LWRP
Dani Glaser	United Communities of Westchester
Resa Dimino	Bronx River Alliance/Bronx Parks
Anne Wilson	Randall's Island Sports Foundation
Robert Pirani	Regional Plan Association
Jeannette Rausch	Economic Development Corporation
Eugenia Flatow	New York City Soil and Water Conservation District
Ron Cabriele	City of Yonkers Downtown and Waterfront Development
Brian Thompson	New York City Dept. of Parks and Recreation
Colleen Alderson	New York City Dept. of Parks and Recreation
Bill Tai	New York City Dept. of Parks and Recreation
Therese Fretwell	U.S. Dept. Of Housing and Urban Development
George Stafford	DOS, NYSCMP
Sam Messina	DOS, NYSCMP
Nancy Walsh	DOS, NYSCMP
Steve Ridler	DOS, NYSCMP
L. Christine McCay	NOAA, Evaluation Team Leader
Helen Farr Bass	NOAA, Evaluation Team Member
Danny Clayton	Florida Coastal Management Program, Evaluation Team Member

## WRITTEN COMMENTS RECEIVED AND RESPONSES

NOAA received written comments regarding the NYSCMP. Each of the comments is summarized below and followed by NOAA's response.

### **Mark Caserta**

**New York City Director of Policy and Advocacy**

**New York League of Conservation Voters**

**New York, New York**

**Comment:** Mr. Caserta directs a program called the Waterfront Park Coalition, an alliance of environmental, civic, and community groups that supports revitalization of New York City's waterfront with public open space and restored ecological habitat. He indicates that much work has been accomplished toward that goal, but much more work and more money are required. He acknowledges the role the Division of Coastal Resources has played in funding waterfront projects in New York City, but he particularly praises the geographic diversity of those funds brought about by the Division throughout the five boroughs. Mr. Caserta also praises the ability of the Coastal Resources Division to fund feasibility and community-based design studies that are critical to moving waterfront revitalization forward. These types of planning efforts cannot be funded by the city's capital budget process. He hopes the Division will continue to play a critical role in the transformation of the City's waterfront.

**NOAA's Response:** NOAA recognizes the NYSCMP's commitment to waterfront revitalization and its ability to identify and fund a variety of needs associated with accomplishing a community's vision.

### **Jeanette Rausch**

**Senior Vice President**

**New York City Economic Development Corporation (NYCEDC)**

**Comment:** The NYCEDC is actively involved in the planning, development, and maintenance of the City's waterfront through a contract with the City. Among the NYCEDC's other duties, it provides services to assist the City in promoting its waterfront. Ms. Rausch indicates that the NYCEDC has had very positive experiences in working with the DOS and the Division of Coastal Resources on several projects. The DOS has assisted the NYCEDC in coordinating the projects, negotiating multiple layers of review agencies, and building consensus. She also acknowledges the support of the DOS and the Division of Coastal Resources in providing funding for planning and project development activities for which it is otherwise difficult to secure funding. Ms. Rausch also praises the NYSCMP staff and their willingness to be constructive partners and provide more than just financial resources.

**NOAA's Response:** NOAA recognizes the NYSCMP's commitment to waterfront revitalization and its ability to identify and fund a variety of needs associated with accomplishing a community's vision.

### **James Scarcella**

**President, Natural Resources Protective Association  
Staten Island, New York**

**Comment:** Mr. Scarcella indicates he believes New York State does a fair to poor job on coastal issues. He says that applications submitted to the DOS regarding coastal actions are rarely questioned or denied, and that approvals are generally granted for filling in tidal wetlands, dredging, disposal, bulkheading, destruction of freshwater wetlands in the coastal flood zone, and sandmining of pristine coastal shoals. He indicates that applications for coastal actions are not required to be publicized in local media and that no contact information for the Department of State is included on “notice of complete applications” required by the Department of Environmental Conservation to be publicized. He recommends that: 1) the DEC be required to list a contact at the New York City Department of City Planning, Waterfront Division, on notices of complete applications for the five boroughs of New York; 2) the DOS Division of Coastal Resources be required to participate in public meetings about flood control in Mr. Scarcella’s area; and 3) that coordinated reviews of actions be required in the coastal management zone.

**NOAA’s Response:** It is difficult to respond to Mr. Scarcella’s broad contention that “applications submitted to the DOS regarding coastal actions are rarely questioned or denied....” and that “In general, approvals are granted....” It is unclear whether he is referring to federal consistency actions or state consistency actions. The DOS has a different role to play in each. Such “rare” denials and “general” approvals may be appropriate within the state’s legal jurisdiction and framework under which the DOS operates. NOAA also believes that coordinated reviews of actions are conducted to the extent necessary among jurisdictions and commenting agencies. Some of these concerns or issues as well as public notification may be addressed in the NYSCMP’s new consistency manual. NOAA believes that a specific emphasis should now be placed on education and outreach with regard to consistency, permitting, and the general function and process of the state’s coastal management program, particularly in New York City and has included two Program Suggestions in this evaluation findings document under the “Public Access” and “Federal Consistency, Permitting, and Changes to the Statutory and Regulatory Provisions of the NYSCMP” sections.

Without a state law or regulation requiring it, participation by Division of Coastal Resources staff in public meetings about flood control is a decision for the Division to make based upon staffing resources.

**Carolyn Summers  
Former Director, New York City Department of Environmental Protection Office of  
Natural Resources; and Former Director, Natural Resources Defense Council’s Harbor  
Bight Project  
Hastings-on-Hudson, New York**

**Comment:** Ms. Summers indicates that she worked closely with Division of Coastal Resources staff on many projects and policy issues and that the program personnel with whom she worked were highly qualified professionals willing to go the extra mile to produce results. She has worked with Coastal Resources staff on grants for restoration projects in New York City, coastal planning studies on Staten Island, New York City’s LWRP, and policy and planning for the NY-NJ Harbor Estuary Program and the resulting Comprehensive Conservation and Management Plan. Ms. Summers also praised the efforts of the Department of State to deny a coastal

consistency permit for a residential development on David's Island in Long Island Sound. David's Island is about to become Westchester County's newest park, due primarily to the strong stand taken by the Department of State, according to Ms. Summers.

**NOAA's Response:** NOAA recognizes the accomplishments of the NYSCMP in its involvement and coordination with a variety of agencies and programs and its staff's accessibility, responsiveness, and technical skills and expertise.

**Anne Wilson, Development Director**  
**Randall's Island Sports Foundation, Inc. (RISF)**  
**New York, New York**

**Comment:** The RISF is a small, nonprofit, public-private partnership with the City of New York/Parks and Recreation, established to cooperate in the management and maintenance of the 480-acre Randall's and Wards Island Park. It works to develop sports and recreation facilities, reclaim and maintain parkland, restore the Island's natural environment, and sponsor community-linked programs for the children of New York City. According to Ms. Wilson, the Division of Coastal Resources has been crucial to the RISF in its hands-on approach to providing technical and financial assistance. Both design and construction grants have been awarded to RISF by the Division, and the NYSCMP staff's assistance, accessibility, knowledge, and familiarity with the Park have contributed greatly to the successes to date of the RISF at the Park.

**NOAA's Response:** NOAA recognizes the accomplishments of the NYSCMP in its involvement and coordination with a variety of agencies and programs and its staff's accessibility, responsiveness, and technical skills and expertise.

### **Comments Concerning Far Rockaway Developments**

Many of the comments NOAA received pertain to several development projects in Far Rockaway and specifically mentioned the Duane Reade Drugstore property and Wavecrest Gardens 2. Other actions involving other projects in the Far Rockaway area were sometimes mentioned, including Impressive Homes/YOMA Development Group and Arverne Urban Renewal. Some background on the projects and the review process was discussed in this document under Section V. Review Findings, Accomplishments, and Recommendations – E. Public Access. That is summarized again here and supplemented with project descriptive information to provide context for the written comments and NOAA's responses, which follow. The descriptive information below is **NOT** intended to represent a complete project file summary or a complete history of review/approval actions. The majority of concerns expressed about these projects pertain to public and visual access to the beach and incompatible character with the surrounding neighborhoods.

### **Background**

The Duane Reade building construction project involved construction of a drugstore, parking lot (both of which are completed), and federal authorization for the construction of a stormwater outfall pipe to accommodate a storm water overflow discharge from the Duane Reade drugstore parking lot through the adjacent New York City Department of Parks waterfront property into Jamaica Bay. Jamaica Bay is designated as a Special Natural Waterfront Area in the NYC LWRP. The Duane Reade construction lot is not a waterfront lot, according to New York City, and a visual corridor is not required. At the time of the evaluation site visit, the state's review for the outfall pipe authorization was not yet complete.

The Wavecrest Gardens 2 project involved New York State Housing Trust Fund Corporation financial assistance to construct a six-story residential structure with 122 affordable housing units, requiring local and state consistency determinations. (The structure is complete.) According to New York City, the project site is not on a waterfront lot. City Planning Commission documentation indicates that waterfront public access is not required for the development because it is not on a waterfront zoning lot; and that a visual corridor is not required because there is a mandatory visual corridor located on a mapped street 138 feet west of the zoning lot.

The Arverne Urban Renewal project involves the proposed development of approximately 260 acres of the 308-acre Arverne Urban Renewal Area, which is now primarily vacant land. Proposed development includes a mix of new residential, commercial, retail, community facility, and open space uses. As part of the proposed development, 46 city-owned street segments and six "parklands" would be demapped. The Impressive Homes/YOMA Development project proposal includes construction of three-story homes.

All of the projects mentioned by persons submitting written comments are within the geographic area covered by the New York City Local Waterfront Revitalization Program (LWRP). Policy 8 in the City's LWRP, which addresses public access, states: "Provide public access to and along New York City's coastal waters." It further indicates that the public access provisions of the city's waterfront zoning regulations implement this policy for actions subject to zoning, and compliance with the requirements of the zoning text satisfy this policy. New York City's LWRP was approved by the NYSCMP in 1982, then revised and re-approved in 2002 by both the NYSCMP and NOAA. Therefore, as it pertains to public access, if a project is in compliance with zoning requirements, the project is consistent with the public access provisions of the City's LWRP. If it is consistent with the LWRP's public access provisions, it is consistent with the NYSCMP in terms of public access.

Under the LWRP, local discretionary actions, including those subject to the city's land use review, environmental, and variance procedures, are reviewed for consistency with the LWRP policies. The LWRP review of local actions is coordinated with existing regulatory processes and generally occurs concurrently. For local actions requiring approval by the City Planning Commission, the Commission (acting as the City Coastal Commission) makes the consistency determination. For local actions that do not require approval by the Planning Commission but do require approval by another city agency, the head of that agency makes the final consistency determination.

For federal and state actions within the city's coastal zone, the Department of City Planning, acting on behalf of the City Coastal Commission, forwards its comments to the state agency making the federal or state consistency determination. With regard to state consistency determinations, the state agency making a determination of consistency for its proposed action considers the comments of local and other state agencies, including the DOS NYSCMP. However, the DOS does not have the authority to override consistency decisions of other state agencies, although the DOS does work with other state agencies where there are concerns about a project's consistency.

### Comments

**Richard George, Director**  
**Beachside Bungalow Preservation Association**  
**Far Rockaway, New York**

**Comment:** Mr. George has submitted many written letters and e-mails and binders of accompanying documentation throughout the course of this evaluation and site visit. He has included letters to the FBI, the Secretary of Commerce, the NY Secretary of State, NY State Inspector General, the mayor of New York City, numerous U.S. and New York State senators and representatives, City of New York and New York State elected officials, among others, and has requested that those letters become a part of this evaluation record. His written comments submitted at the public meeting as well as the other correspondence and information contend that certain actions approved and undertaken by New York State and New York City within the coastal zone boundary of the Rockaway Peninsula are inconsistent with NYSCMP policies and New York City LWRP policies, and that the actions must be corrected using CZMA funds. Specifically, these actions involve the Wavecrest Gardens 2 project, Duane Reade drugstore, Arverne Urban Renewal project, the Impressive Homes/YOMA Development, and demolition permits. Actions that Mr. George cites and believes are inconsistent with New York City, New York State, and federal Coastal Zone Management Act public access policies involve the obstruction of a public access easement and visual corridor, construction over public access easements, demolition of bungalows, construction of non water-related facilities on a waterfront lot, and "de-mapping" of public streets and sidewalks used as perpendicular access to the waterfront.

Mr. George cites federal and state law, court cases, and the public trust doctrine and provides his interpretation of all of these to support his contention that the actions are illegal. He also indicates that City and state actions involving all four development projects have benefitted a private individual or corporation and deprived the public of a benefit, thus resulting in official misconduct. He indicated that he presented this information to the New York Office of the Inspector General, but that office closed the case, finding the allegations were unsubstantiated. He also argues that the city and state agencies are unaware of their responsibilities under the City LWRP, the NYSCMP, and the federal Coastal Zone Management Act and that members of the public are also not made aware of agency obligations or public rights.

**Maria Alvarez**  
**New York, New York**

**Comment:** Ms. Alvarez owns two bungalows in Far Rockaway. She has expressed concern about the loss of a right-of-way/access easement included in her property deed, the incompatibility of the Wavecrest Gardens 2 structure with the surrounding neighborhood, and the obstruction of a 40-foot wide public access way. Ms. Alvarez believes that the Wavecrest Gardens 2 construction, Arverne Urban Renewal Area plans, and Impressive Homes/YOMA Development construction are inconsistent with City LWRP and NYSCMP policies.

**Mr. John Baxter**

**Rockaway Park, New York**

**Comment:** Mr. Baxter has submitted written letters and provided information about the inconsistency of the Duane Reade and the Arverne Urban Renewal projects. He is also concerned about loss of public access at Brighton Beach. He indicates that public access and visual access are not being legally addressed in local decisions in terms of consistency with NYC, state, and federal public access policies. Mr. Baxter believes that the average citizen has never heard of the CZMA, and that local public officials, including the community boards, are also ignorant about the CZMA, the NYSCMP, and NYC LWRP policies. He has indicated that the public, the community decision makers, and politicians need to be educated about coastal laws.

**Elaine Castas**

**Beach 4<sup>th</sup> Street Homeowners Association**

**Far Rockaway, New York**

**Comment:** The homeowners in the Beach 4<sup>th</sup> Street Homeowners Association are concerned about future proposed actions of new development within the area of the neighborhood association on several parcels of vacant land. They believe that other development on the Rockaway Peninsula is inappropriate and want NOAA and the New York Secretary of State to review all proposed development actions for consistency with the enforceable policies of the management program.

**Mr. Neil Dunker**

**Far Rockaway, New York**

**Comment:** Mr. Dunker is disabled, uses a wheelchair, and is in poor health. He indicates that the Wavecrest Gardens 2 project removed a sloped walk/ramp from its property to the bungalow development that he used with his wheelchair, that lights and noise from the building and parking have negatively affected his health, and that the development is out of character with the rest of the neighborhood. Mr. Dunker believes that Wavecrest Gardens 2 and Impressive Homes/YOMA Development are in violation of federal and state laws and regulations and that the Arverne Urban Renewal Area project should not be allowed to move forward because it will eliminate public access.

**Carmela (Mrs. Alfred) George, individually, and**

**Mr. and Mrs. Alfred George, jointly**

**Corona, New York**

**Comment:** Mr. and Mrs. George have written letters expressing concern about the loss of their physical and visual access to the Atlantic Ocean from a beachside bungalow they own. They



have expressed many of the same issues and concerns that others have raised about the Wavecrest Gardens 2 development, Impressive Homes/YOMA Development project, the Arverne Urban Renewal activities, and demolition of some bungalows. They are particularly concerned about the loss of customary access to the beach, loss of visual access, loss of a ramp that used to be accessible for beach-goers, and the fact that the Wavecrest Gardens' six-story building is out of character with the neighborhood.

**Anthony Guastadisegni**  
**Banning, California**

**Comment:** Mr. Guastadisegni owns a bungalow in Far Rockaway and expresses many of the same concerns about Wavecrest Gardens 2 development that others have: loss of the sloped walk/ramp, noise and parking, destruction of a mid-block public access easement, and the incompatibility of the building with the surrounding neighborhood. He also believes that demolition of any bungalows, Wavecrest Gardens 2, Impressive Homes/YOMA Development, and the Arverne Urban Renewal Area project are all inconsistent with NYSCMP policies.

**Silvia Sanza**  
**New York, New York**

**Comment:** Ms. Sanza owns six bungalows and enumerates actions taken pertaining to development of the Wavecrest Gardens 2, Impressive Homes/YOMA Development, Duane Reade drugstore, and Arverne Urban Renewal Area projects that she believes are inconsistent with New York City LWRP and NYSCMP policies. Her comments echo those of others submitting written comments about developments in the Far Rockaway area.

**Larry Soucy**  
**No Address Given**

**Comment:** Mr. Soucy states that Wavecrest Gardens 2 and development of three-story houses on Beach 26<sup>th</sup> Street (Impressive Homes/YOMA Development) over a public access easement are inconsistent with state policies and should not have been approved.

**Brenda Tucker**  
**Far Rockaway, New York**

**Comment:** Ms. Tucker states that actions involving the bulldozing of two houses owned by the U.S. Department of Housing and Urban Development and the resulting loss of public access were inconsistent with City LWRP and NYSCMP policies.

**Stephen Wohl**  
**Rockaway Beach, New York**

**Comment:** Mr. Wohl submitted a copy of a letter he sent to New York City Mayor Michael Bloomberg expressing concern about the development of the Arverne Urban Renewal Area.

### **NOAA's Response to All Written Comments Pertaining to Far Rockaway Issues:**

The CZMA is a voluntary partnership between the federal government and a state. The state and all units of local government in the state still retain their sovereign rights and jurisdictional authorities after NOAA has approved the state's CMP. A programmatic evaluation under Section 312 of the CZMA considers the totality of actions and activities undertaken during the specific period covered by the review as an indication of whether the state CMP still meets the policies and provisions of the CZMA as it did when originally approved and through subsequent program change approvals. If a state is found to be not in compliance with its approved management program or the terms of any CZMA grant or cooperative agreement, enforcement authority given to NOAA in the CZMA consists solely of: 1) suspension and reallocation of CZMA financial assistance to address the reasons for a finding of noncompliance; and 2) withdrawal of coastal management program approval and withdrawal of CZMA financial assistance.

Thus, a programmatic evaluation under Section 312 of the CZMA, and this New York State CMP evaluation and site visit, are not intended to resolve specific disputes over local permitting decisions, nor to collect evidence regarding specific actions taken, nor to issue a finding about whether a governmental entity was correct or incorrect in specific project-related decisions. NOAA, through the CZMA, cannot and does not overturn or supersede state or local decisions or 'force' a state or local government to enforce or implement a state or local law or regulation. Citizens who do not agree with decisions made by the city or the state have available appropriate recourse through state law.

Information and comments presented to OCRM about the Far Rockaway developments are contradictory and subject to interpretation. What many of the citizens at the site visit public meeting said, and what some of the written comments directly indicate or indirectly reflect, is that there could be better knowledge or understanding on the part of both local officials and citizens about local, state, and federal coastal management laws and regulations. The question of accountability of the many local waterfront revitalization programs as they relate to the NYSCMP has also been raised. It is the responsibility of both officials and citizens to be aware of such laws and regulations, but the reality is that the New York City LWRP covers a large geographic area and no doubt encompasses some citizens who are unaware that they live and work within the LWRP boundaries. There are also many governmental and quasi-governmental agencies and entities with certain responsibilities under the LWRP, some of which may not be as well-informed about those responsibilities as they should be. Information exchange and learning/training opportunities may be too infrequent, primarily because of limited staff and time on the part of both the NYSCMP and the New York City agencies and entities.

Through this evaluation and site visit, NOAA has found New York state to be adhering to its approved coastal management program and making satisfactory progress in implementing the provisions of its approved program. This evaluation has found no indication of a pattern, intentional or otherwise, of citywide or statewide failure to appropriately implement the approved coastal management program and address the coastal management policies and needs identified in the CZMA. However, there may be an opportunity to increase the awareness of and knowledge about the specific elements of the NYSCMP, particularly related to the process and activities of the local waterfront revitalization programs. NOAA believes the site visit and

written comments demonstrate that a specific emphasis should now be placed on education and outreach with regard to consistency, permitting, and the general function and process of the state's coastal management program, particularly in New York City. NOAA has included two Program Suggestions in this evaluation findings document under the "Public Access" and "Federal Consistency, Permitting, and Changes to the Statutory and Regulatory Provisions of the NYSCMP" sections to address these concerns. NOAA has also included a Necessary Action under the "Waterfront Revitalization" section to establish a mechanism for periodic state review and evaluation of LWRPs that are part of the NYSCMP.

---

## **ADDENDUM**

Following issuance of the final findings, it was discovered that Mr. Bernard Blum had submitted timely written comments dated 11/13/03. The following is incorporated into the final findings and is a part of the official record of the evaluation.

**Bernard Blum, President  
Friends of Rockaway, Inc.  
Arverne, New York**

**Comment:** Mr. Blum's written comments are copies of several pieces of correspondence he previously sent to the New York Department of State and the coastal management program. In these he expresses his strong concern about the inappropriate removal of topsoil and vegetation in the Dubos Point area as it relates to mosquito control, his perception of denied beach access, and his belief that NOAA and others are ignoring the effects of climate change in the Rockaway area, all of which should have been addressed by the NYSCMP.

**NOAA's Response:** See above "NOAA's Response to All Written Comments Pertaining to Far Rockaway Issues."

## **RESPONSE TO PREVIOUS (1998) EVALUATION FINDINGS**

**NECESSARY ACTION 1:** For the purpose of submitting regional coastal management programs to OCRM for approval that are part of a coherent long-term strategy, the state must submit a draft schedule to OCRM within six months of receipt of final findings for the submittal of RCMPs currently under development, i.e., the LISCMP, NY City CMP, and the SSER CMP. The RCMPs submitted subsequently under this schedule should contain a thorough analysis that addresses how these program changes, including the addition of the RCMP structure to the State's CMP, apply to the five program approval areas identified in OCRM's program change guidance dated July 29, 1996.

Response: The Long Island Sound Coastal Management Program and the Long Island South Shore Estuary Reserve Coastal Management Program were submitted to, and approved by, OCRM for inclusion in the NYSCMP. A local waterfront revitalization program for New York City was submitted to, and approved by, OCRM for inclusion in the NYSCMP.

**NECESSARY ACTION 2:** (a) Within one year from the receipt of these findings, the DOS must develop and begin implementing a written strategy for improving its capability to assist local governments with basic aspects of LWRP implementation. As part of the strategy, DOS should establish a process for monitoring, tracking, and reporting on LWRP (or other management plan) implementation activities, focusing initially on priority areas identified in DOS' internal review of the LWRP process such as implementation of state and federal consistency. (b) Within two years from the receipt of these findings, the DOS should be including information based on this tracking and reporting system in semi-annual performance reports provided to OCRM.

Response: The DOS has established some components that can be considered elements of a basic strategy, such as the multi-media project and GIS applications (noted above and discussed in Section H. "Public Outreach") and the completion of a consistency manual with associated training sessions (see discussion in Section G. "Federal Consistency, Permitting, and Changes to the Statutory and Regulatory Provisions of the NYSCMP"). The Empire State Advantage initiative and the Quality Communities initiative also focus on local capacity building. The NYSCMP has also indicated that unit work plans have been implemented and that work plans in EPF contracts now establish the basis for monitoring and reporting to the Department of State. Semi-annual performance reports sent to NOAA by the NYSCMP address the LWRP progress and EPF initiatives by community.

**NECESSARY ACTION 3:** The DOS must work with DEC's Division of Environmental Permits to identify categories of regional and aggregated information necessary to evaluate the effectiveness of the NYCMP's regulatory programs being administered by DEC. An interagency

strategy or agreement that includes a mechanism for making that information available to DOS (and OCRM) should be developed for use within one year from the date of receipt of these findings.

Response: Coastal area statistics about permit information is provided in semi-annual performance reports submitted to NOAA. Data is included for eight permit categories and defines dates of receipt and issuance and other disposition information. Using this information the NYSCMP indicates it is currently working with the DEC to report additional regional and aggregate program effectiveness information. Additionally, the Measurable Results Database and the Consistency Review/GIS Database will offer opportunities to integrate information from DEC in these areas.

NECESSARY ACTION 4: Within three months of receipt of findings, DOS must: (a) provide a program change submittal schedule to OCRM that will expedite the review and federal approval of outstanding legislative and regulatory revisions to the NYCMP; (b) work with OCRM to review its LWRP submission process and make changes if necessary to improve on its effectiveness and clarity; and (c) establish a procedure for submitting program changes to OCRM at least on an annual basis.

Response: During the period covered by this current evaluation, staff submitted a number of changes to the statutes, coastal policies, Special Management Areas, and procedures and requested NOAA's concurrence that these changes represented routine program changes. NOAA concurred on 5/31/01 and those changes have been incorporated into the NYSCMP.

PROGRAM SUGGESTION 1: In order to promote federal consistency compliance and strengthen their working relationship, the DOS and the Corps Buffalo District's Regulatory Branch should consider meeting to identify, better understand, and resolve outstanding points at issue. OCRM is willing to participate in facilitating this process to help resolve outstanding issues.

Response: There was consideration of a meeting.